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MEMORANDUM

To: The Honorable Marvin L. Abney, Chairman, House Finance Committee
The Honorable Louis P. DiPalma, Chairman, Senate Finance Committee

From: Joseph Codega Jr., Budget Officer *Joseph M. Codega Jr.*

Date: May 17, 2024

Subject: Amendments to the FY 2025 Appropriations Act (24-H-7225)

Governor's Budget Amendment #20

The Governor requests amendments to the FY 2025 Appropriations Act within Article 6, Relating to Taxes and Fees. A description of these amendments are set forth below, with associated legislative changes and/or additions detailed in the subsequent technical section.

In response to concerns which have come to our attention over the course of the legislative session, this amendment proposes technical changes to the sections of Article 6 pertaining to electronic nicotine-delivery systems (ENDS) products to preserve the Department of Behavioral Healthcare, Developmental Disabilities and Hospitals' ability to continue various enforcement duties dictated through its various federal grant authorities. Another change relates to the State's responsibilities under the Tobacco Master Settlement Agreement (MSA). There are no budget amendments associated with this article amendment. The amendment would retain the effective dates as specified in the original Governor's submission.

A summary of proposed changes by section includes:

- Adds a new section repealing § 11-9-13.8.1 to delete signage requirements.
- Retracts the original amendment to § 11-9-13.4 that would have included hemp-derived consumable cannabidiol (CBD) products under the definition of ENDS products under this section. According to BHDDH, these changes align the proposed language with federal law and avoid a potential reduction in grant funding from the federal government.
- Amends Section 3, Section 17, and Section 20 to amend several sections of law to change the term "consumer" to "purchaser" for consistency with federal statutory language.

- Adds “heat not burn products” to the definition of cigarettes in § 44-20-1, retracts the original amendment to that section of law adding “heat not burn products” to the definition of electronic nicotine-delivery system, and removes “heat not burn products” from the definition of electronic nicotine-delivery system in § 11-9-13.4. These changes ensure conformance with the Tobacco Master Settlement Agreement and the Rhode Island implementing legislation found in R.I.G.L. Ch. 23-71. Heat not burn products are not currently sold in Rhode Island.

If you have any questions regarding these amendments, please feel free to call me or my staff at 222-6300.

cc: Sharon Reynolds Ferland, House Fiscal Advisor
Stephen Whitney, Senate Fiscal Advisor
Brian Daniels, Director, Office of Management and Budget
Jonathan Womer, Director of Administration

24-H-7225 RELATING TO MAKING APPROPRIATIONS IN SUPPORT OF FY 2025
Article 6 – Relating to Taxes and Fees

Strike all language from Page 141, Line 4 through Page 145, Line 25 and replace with the following:

SECTION 3. Sections 11-9-13.4, 11-9-13.11, 11-9-13.13, and 11-9-13.20 of the General Laws in Chapter 11-9 entitled "Children" are hereby amended to read as follows:

11-9-13.4. Definitions.

~~As used in~~ For the purposes of this chapter:

(1) "Bidi cigarette" means any product that (i) Contains tobacco that is wrapped in temburni or tender leaf, or that is wrapped in any other material identified by rules of the department of health that is similar in appearance or characteristics to the temburni or tender leaf, and (ii) Does not contain a smoke filtering device.

(2) "Court" means any appropriate district court of the state of Rhode Island.

(3) "Dealer" is synonymous with the term "retail tobacco products dealer."

(4) "Department of behavioral healthcare, developmental disabilities and hospitals" means the state of Rhode Island behavioral healthcare, developmental disabilities and hospitals department, its employees, agents, or assigns.

(5) "Department of taxation" means the state of Rhode Island taxation division, its employees, agents, or assigns.

(6) "Electronic nicotine-delivery system" means an electronic device that may be used to simulate smoking in the delivery of nicotine or other substance to a person inhaling from the device, and includes, but is not limited to, an electronic cigarette, electronic cigar, electronic cigarillo, electronic little cigars, electronic pipe, ~~or~~ electronic hookah, ~~"heat not burn products," e-~~

liquids, e-liquid products, or any related device and any cartridge or other component of such device.

(7) “Electronic nicotine-delivery system product” means any combination of electronic nicotine-delivery system and/or e-liquid and/or any derivative thereof, and/or any e-liquid container. Electronic nicotine-delivery system products shall not include hemp-derived consumable cannabidiol (CBD) products as defined in § 2-26-3.

(8) “E-liquid” and “e-liquid products” means any liquid or substance placed in or sold for use in an electronic nicotine-delivery system that generally utilizes a heating element that aerosolizes, vaporizes, or combusts a liquid or other substance containing nicotine or nicotine derivative:

(i) Whether the liquid or substance contains nicotine or a nicotine derivative; or

(ii) Whether sold separately or sold in combination with a personal vaporizer, electronic nicotine-delivery system, or an electronic inhaler.

(9) “License” is synonymous with the term “retail tobacco products dealer license” or “electronic nicotine-delivery system license” or any license issued under chapter 20 of title 44 ~~or chapter 1 of title 23.~~

(10) “License holder” is synonymous with the term “retail tobacco products dealer” or “electronic nicotine-delivery system license” or any licenses issued under chapter 20 of title 44 ~~or chapter 1 of title 23.~~

(11) “Little cigars” means and includes any roll, made wholly or in part of tobacco, irrespective of size or shape, and irrespective of whether the tobacco is flavored, adulterated, or mixed with any other ingredient, where such roll has a wrapper or cover made of tobacco wrapped in leaf tobacco or any substance containing tobacco paper or any other material and where such

roll has an integrated filter, except where such wrapper is wholly or in greater part made of tobacco and where such roll has an integrated filter and weighs over four (4) pounds per thousand (1,000).

(12) “Person” means any individual person, firm, fiduciary, partnership, trust, association, or corporation licensed as a retail dealer to sell tobacco products within the state.

(13) “Retail tobacco products dealer” means the holder of a license to sell tobacco products at retail and shall include holders of all other licenses issued under chapter 20 of title 44 ~~or chapter 1 of title 23~~.

(14) “Retail tobacco products dealer license” means a license to sell tobacco products and/or electronic nicotine-delivery system products as defined in section 44-20-1(7) at retail as issued by the department of taxation.

(15) “Spitting tobacco” also means snuff, powdered tobacco, chewing tobacco, dipping tobacco, pouch tobacco, or smokeless tobacco.

(16) “Tobacco product(s)” means any product(s) containing, made of, or derived from tobacco or nicotine that is intended for human consumption or is likely to be consumed, whether inhaled, absorbed, or ingested by any other means, including, but not limited to, a cigarette, a little cigar as defined in § 44-20.2-1, and any and all products as defined in § 44-20-1, electronic nicotine-delivery system products or any added substance that may be aerosolized, vaporized, or otherwise delivered by such an electronic nicotine-delivery system device, whether or not that substance contains nicotine.

(i) “Tobacco product(s)” does not include drugs, devices, or combination products intended to treat tobacco or nicotine dependence that are authorized by the United States Food and Drug Administration, as those terms are defined in the Federal Food, Drug and Cosmetic Act. Nor does it include such authorized drugs, devices, or combination products with such treatment

purpose by individuals under age twenty-one (21) if prescribed by a licensed prescriber such as a physician, nurse practitioner, or physician assistant.

(17) “Underage individual” or “underage individuals” means any individual under the age of twenty-one (21).

11-9-13.11. Prohibition on the sale or distribution of tobacco products, including electronic nicotine-delivery system products, through the mail — Conveyance of tobacco products, including electronic nicotine-delivery system products, through the mail to individuals under twenty-one (21) — Proof of age of purchaser required — General rule.

(a) The distribution, or sale or conveyance of tobacco products, including electronic nicotine-delivery system products, to individuals under the age of twenty-one (21) via the United States Postal Service, or by any other public or private postal or package delivery service, shall be prohibited.

(b) Any person, including, but not limited to, on-line retailers, selling or distributing tobacco products in the form of little cigars as defined in § 44-20.2-1, snuff, any and all products defined in § 44-20-1, or electronic nicotine-delivery system products directly to a ~~consumer~~ purchaser via the United States Postal Service, or by any other public or private postal or package delivery service, including orders placed by mail, telephone, facsimile, or internet, shall:

(1) before distributing or selling the tobacco product, including electronic nicotine-delivery system products, through any of these means, receive both a copy of a valid form of government identification showing date of birth to verify the purchaser is age twenty-one (21) years or over and an attestation from the purchaser certifying that the information on the government identification truly and correctly identifies the purchaser and the purchaser’s current address, and

(2) deliver the tobacco product, including electronic nicotine-delivery system products, to the address of the purchaser given on the valid form of government identification and by a postal or package delivery service method that either limits delivery to that purchaser and requires the purchaser to sign personally to receive the delivery or requires a signature of an individual age twenty-one (21) or over at the purchaser's address to deliver the package.

(c) The attorney general shall bring an action for any violation of this chapter. Any distribution, or sale or conveyance of a tobacco product, including electronic nicotine-delivery system products, to an individual under twenty-one (21) years of age via the United States Postal Service, or by any other public or private postal or package delivery service, shall be subject to an action against the distributor, or seller or conveyor by the attorney general of the state of Rhode Island. A minimum fine of one thousand dollars (\$1,000) shall be assessed against any distributor, or seller or conveyor convicted of distributing, or selling or conveying tobacco products, including electronic nicotine-delivery system products, via the United States postal service, or by any other public or private postal or package delivery service, for each delivery, or sale or conveyance of a tobacco product, including electronic nicotine-delivery system products, to an individual under twenty-one (21) years of age.

(d) For the purpose of this section, "distribution," "distributing," "selling" and "sale" do not include the acts of the United States Postal Service or other common carrier when engaged in the business of transporting and delivering packages for others or the acts of a person, whether compensated or not, who transports or delivers a package for another person without any reason to know of the package's contents.

(e) Any delivery sale of cigarettes shall be made pursuant to the provisions of chapter 20.1 of title 44. The provisions of this section shall apply to each tobacco product listed in subsection

(b) herein, which include electronic nicotine-delivery system products, but shall not apply to any delivery sale of cigarettes.

11-9-13.13. Nature and size of penalties.

(a) Any license holder who violates a requirement of § 11-9-13.6(2) or § 11-9-13.7, display of specific signage, shall be subject to a fine in court of not less than thirty-five dollars (\$35.00), nor more than five hundred dollars (\$500), per civil violation.

(b) The license holder is responsible for all violations of this section that occur at the location for which the license is issued. Any license holder who or that violates the prohibition of § 11-9-13.8(1) or § 11-9-13.20 shall be subject to civil fines as follows:

(1) A fine of two hundred fifty dollars (\$250) for the first violation within any thirty-six-month (36) period;

(2) A fine of five hundred dollars (\$500) for the second violation within any thirty-six-month (36) period;

(3) A fine of one thousand dollars (\$1,000) and a fourteen-day (14) suspension of the license to sell tobacco products or electronic nicotine-delivery systems for the third violation within any thirty-six-month (36) period;

(4) A fine of one thousand five hundred dollars (\$1,500) and a ninety-day (90) suspension of the license to sell tobacco products or electronic nicotine-delivery systems for each violation in excess of three (3).

(c) Any person who or that violates a prohibition of § 11-9-13.8(3), sale of single cigarettes; or § 11-9-13.8(2), regarding factory-wrapped packs as sealed and certified by the manufacturer; shall be subject to a penalty of five hundred dollars (\$500) for each violation.

(d) The department of taxation ~~and/or the department of health~~ shall not issue a license to

any individual, business, firm, fiduciary, partnership, trust, association, or corporation, the license of which has been revoked or suspended; to any corporation, an officer of which has had his or her license revoked or suspended; or to any individual who is, or has been, an officer of a corporation the license of which has been revoked or suspended so long as such revocations or suspensions are in effect.

(e) The court may suspend the imposition of a license suspension of the license secured from the Rhode Island tax administrator or department of health for a violation of subsections (b)(3) and (b)(4) of this section if the court finds that the license holder has taken measures to prevent the sale of tobacco products, including electronic nicotine-delivery system products, to an underage individual and the license holder can demonstrate to the court that those measures have been taken and that employees have received training. No person or individual shall sell tobacco products, including electronic nicotine-delivery system products, at retail without first being trained in the legal sale of tobacco products, including electronic nicotine-delivery system products. Training shall teach employees what constitutes a tobacco product, including an electronic nicotine-delivery system product; legal age of sale; acceptable identification; how to refuse a direct sale to an underage individual or secondary sale to an individual twenty-one (21) years or older; and all applicable laws on tobacco sales and distribution. Dealers shall maintain records indicating that the provisions of this section were reviewed with all employees who conduct, or will conduct, tobacco product sales, including electronic nicotine-delivery system product sales. Each employee who sells or will sell tobacco products, including electronic nicotine-delivery system products, shall sign an acknowledgement form attesting that the provisions of this section were reviewed with him or her. Each form shall be maintained by the retailer for as long as the employee is so employed and for no less than one year after termination of employment.

The measures to prevent the sale of tobacco products, including electronic nicotine-delivery system products, to underage individuals shall be defined by the department of behavioral healthcare, developmental disabilities and hospitals in rules and regulations.

11-9-13.20. Packaging of electronic nicotine-delivery system liquid.

(a) No liquid, whether or not such liquid contains nicotine, that is intended for human consumption and used in an electronic nicotine-delivery system, as defined in § 11-9-13.4, shall be sold unless the liquid is contained in child-resistant packaging.

(b) Any liquid nicotine container that is sold at retail in this state must satisfy the child-resistant effectiveness standards set forth in 16 C.F.R. § 1700.15(b), when tested in accordance with the method described in 16 C.F.R. § 1700.20. All licensees under ~~§ 23-1-56~~ § 44-20-2 shall ensure that any liquid sold by the licensee intended for human consumption and used in an electronic-nicotine delivery system, as defined in § 11-9-13.4, is sold in a liquid nicotine container that meets the requirements described and referenced in this subsection.

(c) For the purposes of this section, “liquid nicotine container” means a bottle or other container of a liquid or other substance where the liquid or substance is sold, marketed, or intended for use in a vapor product. A “liquid nicotine container” does not include a liquid or other substance in a cartridge that is sold, marketed, or intended for use in a vapor product, provided that such cartridge is prefilled and sealed by the manufacturer and not intended to be opened by the ~~consumer~~ purchaser.

(d) Any licensee or any person required to be licensed under ~~§ 23-1-56~~ § 44-20-2 who or that fails to comply with this section shall be subject to the penalties provided in § 11-9-13.13.

(e) The licensee is responsible for all violations of this section that occur at the location for which the license is issued.

(f) No licensee or person shall be found in violation of this section if the licensee or person relied in good faith on documentation provided by or attributed to the manufacturer of the packaging of the aforementioned liquid that such packaging meets the requirements of this section.

(g) On or after October 1, 2024, any product found to be in violation of this chapter shall be considered contraband and subject to the confiscation provisions outlined in § 44-20-15.

Page 145, After Line 25: Insert the following new section and renumber subsequent sections accordingly:

SECTION 4. Section 11-9-13.8.1 of the General Laws in Chapter 11-9 entitled "Children" is hereby repealed:

11-9-13.8.1. Signs concerning the health effects of tobacco.

~~Signs provided by the department of behavioral healthcare, developmental disabilities and hospitals, or an exact duplicate of it made privately, shall:~~

~~(1) Contain in red bold lettering a minimum of one quarter of an inch (1/4") high on a white background the following wording, in both English and Spanish:~~

~~WARNING: SMOKING CIGARETTES CONTRIBUTES TO LUNG DISEASE, CANCER, HEART DISEASE, STROKE AND RESPIRATORY ILLNESS AND DURING PREGNANCY MAY RESULT IN LOW BIRTH WEIGHT AND PREMATURE BIRTH.~~

~~(2) The signs shall also include information regarding resources available to Rhode Island residents who would like to quit smoking.~~

~~(3) The signs shall be displayed prominently for public view wherever tobacco products are sold at each cash register, each tobacco vending machine, or any other place from which tobacco products are sold. The signs shall be electronically available in both English and Spanish online at the department of behavioral healthcare, developmental disabilities and hospitals'~~

website.

~~(4) The department of behavioral healthcare, developmental disabilities and hospitals shall have the power and authority to develop and disseminate signs pursuant to the requirements of this section for other tobacco products, including electronic nicotine delivery system products. The messaging included in the signs shall be based on the most current scientific evidence.~~

Strike all language from Page 165, Line 8 through Page 176, Line 28 and replace with the following:

SECTION 17. Effective October 1, 2024, Sections 44-20-1, 44-20-2, 44-20-3, 44-20-4, 44-20-4.1, 44-20-5, 44-20-8.2, 44-20-13.2, 44-20-15, 44-20-33, 44-20-35, 44-20-40, 44-20-40.1, 44-20-43, 44-20-45, 44-20-47, and 44-20-51.1 of the General Laws in Chapter 44-20 entitled "Cigarette and Other Tobacco Products Tax" are hereby amended to read as follows:

44-20-1. Definitions.

Whenever used in this chapter, unless the context requires otherwise:

- (1) "Administrator" means the tax administrator;
- (2) "Cigarettes" means and includes any cigarettes suitable for smoking in cigarette form, "heat not burn products," and each sheet of cigarette rolling paper, including but not limited to, paper made into a hollow cylinder or cone, made with paper or any other material, with or without a filter suitable for use in making cigarettes;
- (3) "Dealer" means any person whether located within or outside of this state, who sells or distributes cigarettes and/or other tobacco products and/or electronic nicotine-delivery system products to a consumer in this state;
- (4) "Distributor" means any person:
 - (A) Whether located within or outside of this state, other than a dealer, who sells or

distributes cigarettes and/or other tobacco products and/or electronic nicotine-delivery system products within or into this state. Such term shall not include any cigarette or other tobacco product manufacturer, export warehouse proprietor, or importer with a valid permit under 26 U.S.C. § 5712, if such person sells or distributes cigarettes and/or other tobacco products and/or electronic nicotine-delivery system products in this state only to licensed distributors, or to an export warehouse proprietor or another manufacturer with a valid permit under 26 U.S.C. § 5712;

(B) Selling cigarettes and/or other tobacco products and/or electronic nicotine-delivery system products directly to ~~consumers~~ purchasers in this state by means of at least twenty-five (25) vending machines;

(C) Engaged in this state in the business of manufacturing cigarettes and/or other tobacco products and/or electronic nicotine-delivery system products or any person engaged in the business of selling cigarettes and/or other tobacco products and/or electronic nicotine-delivery system products to dealers, or to other persons, for the purpose of resale only; provided, that seventy-five percent (75%) of all cigarettes and/or other tobacco products and/or electronic nicotine-delivery system products sold by that person in this state are sold to dealers or other persons for resale and selling cigarettes and/or other tobacco products and/or electronic nicotine-delivery system products directly to at least forty (40) dealers or other persons for resale; or

(D) Maintaining one or more regular places of business in this state for that purpose; provided, that seventy-five percent (75%) of the sold cigarettes and/or other tobacco products and/or electronic nicotine-delivery system products are purchased directly from the manufacturer and selling cigarettes and/or other tobacco products and/or electronic nicotine-delivery system products directly to at least forty (40) dealers or other persons for resale;

(5) “E-liquid” and “e-liquid products” mean any liquid or substance placed in or sold for

use in an electronic nicotine-delivery system which generally utilizes a heating element that aerosolizes, vaporizes or combusts a liquid or other substance containing nicotine or nicotine derivative:

(a) whether the liquid or substance contains nicotine or a nicotine derivative; or,

(b) whether sold separately or sold in combination with a personal vaporizer, electronic nicotine-delivery system, or an electronic inhaler.

(6) "Electronic nicotine-delivery system" means an electronic device that may be used to simulate smoking in the delivery of nicotine or other substance to a person inhaling from the device, and includes, but is not limited to, an electronic cigarette, electronic cigar, electronic cigarillo, electronic little cigars, electronic pipe, electronic hookah, e-liquids, e-liquid products, or any related device and any cartridge or other component of such device.

(7) "Electronic nicotine-delivery system products" means any combination of electronic nicotine-delivery system and/or e-liquid and/or any derivative thereof, and/or any e-liquid container. Electronic nicotine-delivery system products shall include hemp-derived consumable CBD products as defined in § 2-26-3.

(58) "Importer" means any person who imports into the United States, either directly or indirectly, a finished cigarette or other tobacco product and/or electronic nicotine-delivery system product for sale or distribution;

(69) "Licensed," when used with reference to a manufacturer, importer, distributor or dealer, means only those persons who hold a valid and current license issued under § 44-20-2 for the type of business being engaged in. When the term "licensed" is used before a list of entities, such as "licensed manufacturer, importer, wholesale dealer, or retailer dealer," such term shall be deemed to apply to each entity in such list;

(~~7~~10) “Manufacturer” means any person who manufactures, fabricates, assembles, processes, or labels a finished cigarette and/or other tobacco products and/or electronic nicotine-delivery system products;

(~~8~~11) “Other tobacco products” (OTP) means any cigars (excluding Little Cigars, as defined in § 44-20.2-1, which are subject to cigarette tax), cheroots, stogies, smoking tobacco (including granulated, plug cut, crimp cut, ready rubbed and any other kinds and forms of tobacco suitable for smoking in a pipe or otherwise), chewing tobacco (including Cavendish, twist, plug, scrap and any other kinds and forms of tobacco suitable for chewing), any and all forms of hookah, shisha and “mu’assel” tobacco, snuff, and shall include any other articles or products made of or containing tobacco, in whole or in part, or any tobacco substitute, except cigarettes;

(~~9~~12) “Person” means any individual, including an employee or agent, firm, fiduciary, partnership, corporation, trust, or association, however formed;

(~~10~~13) “Pipe” means an apparatus made of any material used to burn or vaporize products so that the smoke or vapors can be inhaled or ingested by the user;

(~~11~~14) “Place of business” means any location where cigarettes and/or other tobacco products and/or electronic nicotine-delivery system products are sold, stored, or kept, including, but not limited to; any storage room, attic, basement, garage or other facility immediately adjacent to the location. It also includes any receptacle, hide, vessel, vehicle, airplane, train, or vending machine;

(~~12~~15) “Sale” or “sell” means gifts, exchanges, and barter of cigarettes and/or other tobacco products and/or electronic nicotine-delivery system products. The act of holding, storing, or keeping cigarettes and/or other tobacco products and/or electronic nicotine-delivery system products at a place of business for any purpose shall be presumed to be holding the cigarettes

and/or other tobacco products and/or electronic nicotine-delivery system products for sale. Furthermore, any sale of cigarettes and/or other tobacco products and/or electronic nicotine-delivery system products by the servants, employees, or agents of the licensed dealer during business hours at the place of business shall be presumed to be a sale by the licensee;

(~~13~~16) “Stamp” means the impression, device, stamp, label, or print manufactured, printed, or made as prescribed by the administrator to be affixed to packages of cigarettes, as evidence of the payment of the tax provided by this chapter or to indicate that the cigarettes are intended for a sale or distribution in this state that is exempt from state tax under the provisions of state law; and also includes impressions made by metering machines authorized to be used under the provisions of this chapter.

44-20-2. Manufacturer, Importer, distributor, and dealer licenses required —
Licenses required.

(a) Each manufacturer engaging in the business of selling any cigarette and/or any tobacco products and/or electronic nicotine-delivery system products in this state shall secure a license, unless otherwise prohibited by federal law, from the administrator before engaging in that business, or continuing to engage in it.

(b) Each person engaging in the business of selling cigarette and/or any tobacco products and/or any electronic nicotine-delivery system products in this state, including any manufacturer, importer, distributor or dealer, shall secure a license from the administrator before engaging in that business, or continuing to engage in it. A separate application and license is required for each place of business operated by a distributor, manufacturer, importer, or dealer; provided, that an operator of vending machines for cigarette products is not required to obtain a distributor’s license for each machine. If the applicant for a license does not have a place of business in this state, the license

shall be issued for such applicant's principal place of business, wherever located. A licensee shall notify the administrator within thirty (30) days in the event that it changes its principal place of business. A separate license is required for each class of business if the applicant is engaged in more than one of the activities required to be licensed by this section. No person shall maintain or operate or cause to be operated a vending machine for cigarette products without procuring a dealer's license for each machine.

(c) Effective October 1, 2024, the administrator shall implement a single license and renewal application that allows for the licensure of retailers/dealers of cigarettes and/or any tobacco products and/or any electronic nicotine-delivery system products and a separate single license and renewal application that allows for the licensure of distributors, manufacturers, and importers of cigarettes and/or any tobacco products and/or any electronic nicotine-delivery system products.

(d) Immediately following the enactment of this chapter, any electronic nicotine-delivery system products distributor or dealer, licensed in good-standing by the department of health pursuant to chapter 1 of title 23, shall be considered licensed for purposes of compliance with this chapter until the renewal date for such license pursuant to chapter 20 of title 44 occurs; thereafter, such distributors and dealers shall be required to comply with the license requirements in this chapter.

44-20-3. Penalties for unlicensed business.

Any manufacturer, importer, distributor or dealer who sells, offers for sale, or possesses with intent to sell, cigarettes and/or any other tobacco products and/or any electronic nicotine-delivery system products, without a license as provided in § 44-20-2, shall be guilty of a misdemeanor, and shall be fined not more than ten thousand dollars (\$10,000) for each offense, or

be imprisoned for a term not to exceed one (1) year, or be punished by both a fine and imprisonment.

44-20-4. Application for license — Display.

All licenses are issued by the tax administrator upon approval of application, stating, on forms prescribed by the tax administrator, the information he or she may require for the proper administration of this chapter. Each application for ~~an~~ a manufacturer, importer's, or distributor's license shall be accompanied by a fee of one thousand dollars (\$1,000); provided, that for a distributor who does not affix stamps, the fee shall be one hundred dollars (\$100); each application for a dealer's license shall be accompanied by ~~a~~ an application fee of twenty-five dollars (\$25.00). Each issued license shall be prominently displayed on the premises within this state, if any, covered by the license. In the instance of an application for a distributor's license, the administrator shall require, in addition to other information as may be deemed necessary, the filing of affidavits from three (3) cigarette manufacturers with national distribution stating that the manufacturer will supply the distributor if the applicant is granted a license.

44-20-4.1. License availability.

(a) No license under this chapter may be granted, maintained or renewed if the applicant, or any combination of persons owning directly or indirectly any interests in the applicant:

- (1) Owes five hundred dollars (\$500) or more in delinquent taxes;
- (2) Is delinquent in any tax filings for one month or more;
- (3) Had a license under this chapter revoked by the administrator within the past two (2) years;
- (4) Has been convicted of a crime relating to cigarettes and/or other tobacco products;
- (5) Is a cigarette manufacturer or importer that is neither: (i) A participating manufacturer

as defined in subsection II (jj) of the “Master Settlement Agreement” as defined in § 23-71-2; nor
(ii) In full compliance with chapter 20.2 of this title and § 23-71-3;

(6) Has imported, or caused to be imported, into the United States any cigarette, and/or other tobacco product and/or electronic nicotine-delivery system products in violation of 19 U.S.C. § 1681a or any other state or federal law; or

(7) Has imported, or caused to be imported into the United States, or manufactured for sale or distribution in the United States any cigarette that does not fully comply with the Federal Cigarette Labeling and Advertising Act (15 U.S.C. § 1331 et seq.).

(b)(1) No person shall apply for a new license or permit (as defined in § 44-19-1) or renewal of a license or permit, and no license or permit shall be issued or renewed for any applicant, or any combination of persons owning directly or indirectly any interests in the applicant, unless all outstanding fines, fees, or other charges relating to any license or permit held by the applicant, or any combination of persons owning directly or indirectly any interests in the applicant, as well as any other tax obligations of the applicant, or any combination of persons owning directly or indirectly any interests in the applicant have been paid.

(2) No license or permit shall be issued relating to a business until all prior licenses or permits relating to that business or to that location have been officially terminated and all fines, fees, or charges relating to the prior license or permit have been paid or otherwise resolved or the administrator has found that the person applying for the new license or permit is not acting as an agent for the prior licensee or permit holder who is subject to any such related fines, fees or charges that are still due. Evidence of such agency status includes, but is not limited to, a direct familial relationship and/or an employment, contractual, or other formal financial or business relationship with the prior licensee or permit holder.

(3) No person shall apply for a new license or permit pertaining to a specific location in order to evade payment of any fines, fees, or other charges relating to a prior license or permit.

(4) No new license or permit shall be issued for a business at a specific location for which a license or permit already has been issued unless there is a bona fide, good-faith change in ownership of the business at that location.

(5) No license or permit shall be issued, renewed, or maintained for any person, including the owners of the business being licensed or having applied and received a permit, that has been convicted of violating any criminal law relating to tobacco products, the payment of taxes, or fraud or has been ordered to pay civil fines of more than twenty-five thousand dollars (\$25,000) dollars for violations of any civil law relating to tobacco products, the payment of taxes, or fraud.

44-20-5. Expiration, Duration, and renewal of manufacturer's, importer's, distributor's and dealer's licenses — Renewal.

(a) Effective October 1, 2024 to add manufacturer and distributor: Any manufacturer, importer, or distributor license and any license issued by the tax administrator authorizing a dealer to sell cigarettes and/or other tobacco products and/or electronic nicotine-delivery system products or a manufacturer to sell electronic nicotine-delivery system products in this state shall expire at midnight on June 30 next succeeding the date of issuance unless (1) suspended or revoked by the tax administrator, (2) the business with respect to which the license was issued changes ownership, (3) the manufacturer, importer, distributor or dealer ceases to transact the business for which the license was issued, or (4) after a period of time set by the administrator; provided such period of time shall not be longer than three (3) years, in any of which cases the license shall expire and terminate and the holder shall immediately return the license to the tax administrator.

(b) Every holder of a dealer's license shall annually, on or before February 1 of each year,

renew its license by filing an application for renewal along with a twenty-five dollar (\$25.00) renewal fee. The renewal license is valid for the period July 1 of that calendar year through June 30 of the subsequent calendar year.

44-20-8.2. Transactions only with licensed manufacturers, importers, distributors, and dealers.

A manufacturer or importer may sell or distribute cigarettes and/or other tobacco products and/or electronic nicotine-delivery system products to a person located or doing business within this state, only if such person is a licensed importer or distributor. An importer may obtain cigarettes and/or other tobacco products and/or electronic nicotine-delivery system products only from a licensed manufacturer. A distributor may sell or distribute cigarettes and/or other tobacco products and/or electronic nicotine-delivery system products to a person located or doing business within this state, only if such person is a licensed distributor or dealer. A distributor may obtain cigarettes and/or other tobacco products and/or electronic nicotine-delivery system products only from a licensed manufacturer, importer, or distributor. A dealer may obtain cigarettes and/or other tobacco products and/or electronic nicotine-delivery system products only from a licensed distributor.

44-20-13.2. Tax imposed on other tobacco products, smokeless tobacco, cigars, and pipe tobacco products, and electronic nicotine-delivery system products.

(a) A tax is imposed on all other tobacco products, smokeless tobacco, cigars, ~~and~~ pipe tobacco products, and electronic nicotine-delivery system products sold, or held for sale in the state by any person, the payment of the tax to be accomplished according to a mechanism established by the administrator, division of taxation, department of revenue. The tax imposed by

this section shall be as follows:

(1) At the rate of eighty percent (80%) of the wholesale cost of other tobacco products, cigars, pipe tobacco products, and smokeless tobacco other than snuff.

(2) Notwithstanding the eighty percent (80%) rate in subsection (a) above, in the case of cigars, the tax shall not exceed fifty cents (\$.50) for each cigar.

(3) At the rate of one dollar (\$1.00) per ounce of snuff, and a proportionate tax at the like rate on all fractional parts of an ounce thereof. Such tax shall be computed based on the net weight as listed by the manufacturer; provided, however, that any product listed by the manufacturer as having a net weight of less than 1.2 ounces shall be taxed as if the product has a net weight of 1.2 ounces.

(4) Effective October 1, 2024, at the rate of eighty percent (80%) of the wholesale cost of electronic nicotine-delivery system products as defined herein.

(i) Existing Inventory Floor Tax: For all electronic nicotine-delivery system products held by licensed electronic nicotine-delivery system products retailers as of October 1, 2024: Each person engaging in the business of selling electronic nicotine-delivery system products at retail in this state shall pay a tax measured by the wholesale cost of electronic nicotine-delivery system products held by the person in this state at 12:01 a.m. on October 1, 2024, and is computed at the rate of eighty percent (80%) of the wholesale cost of electronic nicotine-delivery system products on October 1, 2024. Each person subject to the payment of the tax imposed by this section shall, on or before October 16, 2024, file a return, under oath or certified under the penalties of perjury, with the administrator on forms furnished by him or her, showing wholesale cost of electronic nicotine-delivery system products in that person's possession in this state at 12:01 a.m. on October 1, 2024, as described in this section, and the amount of tax due, and shall at the time of filing the

return pay the tax to the administrator. Failure to obtain forms shall not be an excuse for the failure to make a return containing the information required by the administrator.

(ii) For all electronic nicotine-delivery system products sold by licensed electronic nicotine-delivery system products distributors, manufacturers and/or importers in Rhode Island as of October 1, 2024: any person engaging in the business of distributing at wholesale electronic nicotine-delivery system products in this state shall pay a tax measured by the wholesale cost of electronic nicotine-delivery system products computed at the rate of eighty percent (80%) of the wholesale cost of electronic nicotine-delivery system products.

(iii) Exemptions. The provisions of this chapter shall not apply to any product used for research purposes by a bona fide educational or governmental organization.

(b) Prior to October 1, 2024: Any dealer having in his or her possession any other tobacco products with respect to the storage or use of which a tax is imposed by this section shall, within five (5) days after coming into possession of the other tobacco products in this state, file a return with the tax administrator in a form prescribed by the tax administrator. The return shall be accompanied by a payment of the amount of the tax shown on the form to be due. Records required under this section shall be preserved on the premises described in the relevant license in such a manner as to ensure permanency and accessibility for inspection at reasonable hours by authorized personnel of the administrator.

Effective October 1, 2024, all other tobacco products, and electronic nicotine delivery system products sold at wholesale in Rhode Island must be sold by a Rhode Island licensed distributor, manufacturer or importer and purchases of other tobacco products and/or electronic nicotine delivery system products from an unlicensed distributor, manufacturer or importer are prohibited. Any other tobacco products and/or electronic nicotine delivery system products

purchased and/or obtained from an unlicensed person shall be subject to the terms of this chapter including but not limited to section 44-20-15 and shall be taxed pursuant to section 44-20-13.2.

(c) The proceeds collected are paid into the general fund.

44-20-15. Confiscation of contraband cigarettes, other tobacco products, electronic nicotine-delivery system products, and other property.

(a) All cigarettes, ~~and~~ other tobacco products, and/or electronic nicotine-delivery system products that are held for sale or distribution within the borders of this state in violation of the requirements of this chapter or federal law are declared to be contraband goods and may be seized by the tax administrator or his or her agents, or employees, or by any sheriff, or his or her deputy, or any police officer when directed by the tax administrator to do so, without a warrant. All contraband goods seized by the state under this chapter shall be destroyed.

(b) All fixtures, equipment, and all other materials and personal property on the premises of any distributor or dealer who, with the intent to defraud the state, fails to keep or make any record, return, report, or inventory; keeps or makes any false or fraudulent record, return, report, or inventory required by this chapter; refuses to pay any tax imposed by this chapter; or attempts in any manner to evade or defeat the requirements of this chapter shall be forfeited to the state.

44-20-33. Sale of contraband cigarettes, ~~or~~ contraband other tobacco products or contraband electronic nicotine-delivery system products prohibited.

No distributor shall sell, and no other person shall sell, offer for sale, display for sale, or possess with intent to sell any contraband other tobacco products without written record of the payment of tax imposed by this chapter, or contraband electronic nicotine-delivery system products without written record of the payment of tax imposed by this chapter or contraband cigarettes, the packages or boxes of which do not bear stamps evidencing the payment of the tax

imposed by this chapter.

44-20-35. Penalties for violations as to unstamped contraband cigarettes, or contraband other tobacco products or contraband electronic nicotine-delivery system products.

(a) Any person who violates any provision of §§ 44-20-33 and 44-20-34 shall be fined or imprisoned, or both fined and imprisoned, as follows:

(1) For a first offense in a twenty-four-month (24) period, fined not more than ten (10) times the retail value of the contraband cigarettes, contraband electronic nicotine-delivery system products, and/or contraband other tobacco products, or be imprisoned not more than one (1) year, or be both fined and imprisoned;

(2) For a second or subsequent offense in a twenty-four-month (24) period, fined not more than twenty-five (25) times the retail value of the contraband cigarettes, contraband electronic nicotine-delivery system products, and/or contraband other tobacco products, or be imprisoned not more than three (3) years, or be both fined and imprisoned.

(b) When determining the amount of a fine sought or imposed under this section, evidence of mitigating factors, including history, severity, and intent shall be considered.

44-20-40. Records — Investigation and inspection of books, premises and stock.

(a) Each manufacturer, importer, distributor and dealer shall maintain copies of invoices or equivalent documentation for, or itemized for, each of its facilities for each transaction (other than a retail transaction with a ~~consumer~~ purchaser) involving the sale, purchase, transfer, consignment, or receipt of cigarettes, other tobacco products and electronic nicotine-delivery system products. The invoices or documentation shall show the name and address of the other party and the quantity by brand style of the cigarettes, other tobacco products and electronic nicotine-delivery system

products involved in the transaction. All records and invoices required under this section must be safely preserved for three (3) years in a manner to insure permanency and accessibility for inspection by the administrator or his or her authorized agents.

(b) Records required under this section shall be preserved on the premises described in the relevant license in such a manner as to ensure permanency and accessibility for inspection at reasonable hours by authorized personnel of the administrator. With the administrator's permission, persons with multiple places of business may retain centralized records, but shall transmit duplicates of the invoices or the equivalent documentation to each place of business within twenty-four (24) hours upon the request of the administrator or his or her designee.

(c) The administrator or his or her authorized agents may examine the books, papers, reports and records of any manufacturer, importer, distributor or dealer in this state for the purpose of determining whether taxes imposed by this chapter have been fully paid, and may investigate the stock of cigarettes, other tobacco products and/or electronic nicotine-delivery system products in or upon any premises for the purpose of determining whether the provisions of this chapter are being obeyed. The administrator in his or her sole discretion may share the records and reports required by such sections with law enforcement officials of the federal government or other states.

44-20-40.1. Inspections.

(a) The administrator or his or her duly authorized agent shall have authority to enter and inspect, without a warrant during normal business hours, and with a warrant during nonbusiness hours, the facilities and records of any manufacturer, importer, distributor, or dealer.

(b) In any case where the administrator or his or her duly authorized agent, or any police officer of this state, has knowledge or reasonable grounds to believe that any vehicle is transporting cigarettes, ~~or~~ other tobacco products or electronic nicotine-delivery system products in violation

of this chapter, the administrator, such agent, or such police officer, is authorized to stop such vehicle and to inspect the same for contraband cigarettes, ~~or~~ contraband other tobacco products or contraband electronic nicotine-delivery system products.

44-20-43. Violations as to reports and records.

Any person who fails to submit the reports required in this chapter or by the tax administrator under this chapter, or who makes any incomplete, false, or fraudulent report, or who refuses to permit the tax administrator or his or her authorized agent to examine any books, records, papers, or stocks of cigarettes, ~~or~~ other tobacco products or electronic nicotine-delivery system products as provided in this chapter, or who refuses to supply the tax administrator with any other information which the tax administrator requests for the reasonable and proper enforcement of the provisions of this chapter, shall be guilty of a misdemeanor punishable by imprisonment up to one (1) year, or a fine of not more than five thousand dollars (\$5,000), or both, for the first offense, and for each subsequent offense, shall be fined not more than ten thousand dollars (\$10,000), or be imprisoned not more than five (5) years, or both.

44-20-45. Importation of cigarettes, ~~and/or~~ other tobacco products, and/or electronic nicotine-delivery system products with intent to evade tax.

Any person, firm, corporation, club, or association of persons who or that orders any cigarettes, ~~and/or~~ other tobacco products, and/or electronic nicotine-delivery system products for another; or pools orders for cigarettes, ~~and/or~~ other tobacco products, and/or electronic nicotine-delivery system products from any persons; or conspires with others for pooling orders; or receives in this state any shipment of contraband cigarettes, ~~and/or~~ contraband other tobacco products, and/or electronic nicotine-delivery system products on which the tax imposed by this chapter has not been paid, for the purpose and intention of violating the provisions of this chapter or to avoid

payment of the tax imposed in this chapter, is guilty of a felony and shall be fined one hundred thousand dollars (\$100,000) or five (5) times the retail value of the cigarettes, other tobacco products, and/or electronic nicotine-delivery system products involved, whichever is greater, or imprisoned not more than fifteen (15) years, or both.

44-20-47. Hearings by tax administrator.

Any person aggrieved by any action under this chapter of the tax administrator or his or her authorized agent for which a hearing is not elsewhere provided may apply to the tax administrator, in writing, within thirty (30) days of the action for a hearing, stating the reasons why the hearing should be granted and the manner of relief sought. The tax administrator shall notify the applicant of the time and place fixed for the hearing. After the hearing, the tax administrator may make the order in the premises as may appear to the tax administrator just and lawful and shall furnish a copy of the order to the applicant. The tax administrator may, by notice in writing, at any time, order a hearing on his or her own initiative and require the taxpayer or any other individual whom the tax administrator believes to be in possession of information concerning any manufacture, importation, or sale of cigarettes, other tobacco products, and/or electronic nicotine-delivery system products to appear before the tax administrator or his or her authorized agent with any specific books of account, papers, or other documents, for examination relative to the hearing.

44-20-51.1. Civil penalties.

(a) Whoever omits, neglects, or refuses to comply with any duty imposed upon him/her by this chapter, or to do, or cause to be done, any of the things required by this chapter, or does anything prohibited by this chapter, shall, in addition to any other penalty provided in this chapter, be liable as follows:

(1) For a first offense in a twenty-four-month (24) period, a penalty of not more than ten

(10) times the retail value of the cigarettes, ~~and/or~~ other tobacco products and/or electronic nicotine-delivery system products involved; and

(2) For a second or subsequent offense in a twenty-four-month (24) period, a penalty of not more than twenty-five (25) times the retail value of the cigarettes, ~~and/or~~ other tobacco products and/or contraband electronic nicotine-delivery system products involved.

(b) Whoever omits, neglects, or refuses to comply with any duty imposed upon him/her by this chapter, or to do, or cause to be done, any of the things required by this chapter, or does anything prohibited by this chapter, fails to pay any tax imposed by this chapter at the time prescribed by law or regulations, shall, in addition to any other penalty provided in this chapter, be liable for a penalty of one thousand dollars (\$1,000) or not more than five (5) times the tax due but unpaid, whichever is greater.

(c) When determining the amount of a penalty sought or imposed under this section, evidence of mitigating or aggravating factors, including history, severity, and intent, shall be considered.

Strike all language from Page 178, Line 4 through Page 179, Line 1 and replace with the following:

SECTION 20. Effective October 1, 2024, Sections 44-20.1-3 and 44-20.1-4 of the General Laws in Chapter 44-20.1 entitled "Delivery Sales of Cigarettes" is hereby amended to read as follows:

44-20.1-3. Age Verification requirements.

(a) No person, including but not limited to online retailers, shall mail, ship, or otherwise deliver cigarettes, other tobacco products, or electronic nicotine-delivery systems in connection with a delivery sale unless such person prior to the first delivery sale to such ~~consumer~~ purchaser:

(1) Obtains from the prospective ~~consumer~~ purchaser a certification that includes:

(i) A reliable confirmation that the ~~consumer~~ purchaser is at least the legal minimum ~~purchase sales~~ age; and

(ii) A statement signed by the prospective ~~consumer~~ purchaser in writing that certifies the prospective ~~consumer~~ purchaser's address and that the ~~consumer~~ purchaser is at least ~~eighteen~~ twenty-one (1821) years of age. Such statement shall also confirm:

(A) That the prospective ~~consumer~~ purchaser understands that signing another person's name to such certification is illegal;

(B) That the sale of cigarettes to individuals under the legal minimum ~~purchase sales~~ age is illegal;

~~(C) That the purchase of cigarettes by individuals under the legal minimum purchase age is illegal under the laws of the state; and~~

~~(D)~~ (C) That the prospective consumer wants to receive mailings from a tobacco company;

(2) Makes a good faith effort to verify the information contained in the certification provided by the prospective consumer pursuant to subsection (1) against a commercially available database, or obtains a photocopy or other image of the valid, government-issued identification stating the date of birth or age of the individual placing the order;

(3) Provides to the prospective ~~consumer~~ purchaser, via e-mail or other means, a notice that meets the requirements of § 44-20.1-4; and

(4) In the case of an order for cigarettes and/or other tobacco products, and/or electronic nicotine-delivery system products pursuant to an advertisement on the Internet, receives payment for the delivery sale from the prospective ~~consumer~~ purchaser by a credit or debit card that has been issued in such ~~consumer's~~ purchaser's name or by check.

(b) Persons accepting purchase orders for delivery sales may request that the prospective

~~consumers~~ purchasers provide their e-mail addresses.

(c) The division of taxation, in consultation with the department of health, may promulgate rules and regulations pertaining to this section.

44-20.1-4. Disclosure requirements.

The notice required under subdivision 44-20.1-3(a)(3) shall include:

(a) A prominent and clearly legible statement that the sale of cigarettes, other tobacco products, and electronic nicotine-delivery system products sales to consumers ~~individuals~~ below the legal minimum ~~purchase sales~~ age ~~are is~~ illegal;

(b) A prominent and clearly legible statement that sales of cigarettes, other tobacco products, and electronic nicotine-delivery system products, are restricted to those ~~consumers~~ individuals who provide verifiable proof of age in accordance with § 44-20.1-3; and

(c) A prominent and clearly legible statement that the sale of cigarettes, other tobacco products, and electronic nicotine-delivery system products sales are subject to tax under the provisions of § 44-20-12 or § 44-20-13.2, and an explanation of how such tax has been, or is to be paid with respect to such delivery sale.