

HB 427 – AS AMENDED BY THE HOUSE

29Jan2014... 2275h

2013 SESSION

13-0578  
09/04

HOUSE BILL           **427**

AN ACT               relative to tobacco tax laws.

SPONSORS:          Rep. Almy, Graf 13

COMMITTEE:        Ways and Means

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AMENDED ANALYSIS

This bill clarifies activities which constitute unauthorized sales of tobacco products. The bill also adds records of tobacco stamps sold and tobacco products distributed to required taxpayer records. The bill changes definitions relating to “manufacturer” and “premium cigars” and adds a definition of “humidor” to the tobacco tax laws and the liquor laws.

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Explanation:       Matter added to current law appears in ***bold italics***.  
                          Matter removed from current law appears [~~in brackets and struck through.~~]  
                          Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Thirteen*

AN ACT                   relative to tobacco tax laws.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1           1 Unauthorized Sales. Amend RSA 78:12-a to read as follows:

2           78:12-a Unauthorized Sales.

3           ***I.*** Manufacturers, wholesalers, and sub-jobbers shall not sell tobacco products to any  
4 licensee who does not possess a valid or current license issued by the commissioner or issued by the  
5 liquor commission under RSA 178. ~~[Any person who violates the provisions of this section shall be~~  
6 ~~subject to the penalty provisions of RSA 21-J:39.]~~

7           ***II.*** *New Hampshire licensed manufacturers engaged in the business of importing,*  
8 *exporting, producing, or manufacturing tobacco products, other than products defined as*  
9 *premium cigars under RSA 78:1, XXI, shall sell the products only to licensed wholesalers.*

10           ***III.*** *New Hampshire licensed wholesalers engaged in business in this state shall*  
11 *purchase all unstamped tobacco products directly from a New Hampshire licensed*  
12 *manufacturer, and shall sell all products to licensed wholesalers, sub-jobbers, vending*  
13 *machine operators, retailers, and those persons exempted from the tobacco tax under*  
14 *RSA 78:7-b.*

15           ***IV.*** *Sub-jobbers shall only re-sell tobacco products to other licensed sub-jobbers,*  
16 *vending machine operators, retailers, and those persons exempted from the tobacco tax*  
17 *under RSA 78:7-b.*

18           ***V.*** *Any person who violates the provisions of this section shall be subject to the*  
19 *penalty provisions of RSA 21-J:39.*

20           2 Required Taxpayer Records. Amend RSA 78:18 to read as follows:

21           78:18 Required Taxpayer Records. The commissioner shall adopt rules, pursuant to RSA 541-A,  
22 relative to the form for records of ***tobacco stamps and of*** all tobacco products manufactured,  
23 produced, purchased, ***distributed***, and sold. Each manufacturer, wholesaler, sub-jobber, vending  
24 machine operator and retailer shall keep complete and accurate records of all ***tobacco stamps and***  
25 ***all*** such tobacco products ***manufactured, produced, purchased, distributed, and sold***. Such  
26 records shall be safely preserved for 3 years in such manner as to insure permanency and  
27 accessibility for inspection by the commissioner and the commissioner's authorized agents. The  
28 commissioner and the authorized agents may examine the books, papers and records of any  
29 manufacturer, wholesaler, sub-jobber, vending machine operator or retailer doing business in this  
30 state, for the purpose of determining whether the tax imposed by this chapter has been fully paid,

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1 and they may investigate and examine the stock of tobacco products in or upon any premises where  
2 such tobacco products are possessed, stored or sold, for the purpose of determining whether the  
3 provisions of this chapter are being obeyed. Each sampler shall keep complete and accurate records  
4 of tobacco products distributed free to consumers in New Hampshire for promotional purposes. The  
5 commissioner and the commissioner's authorized agents may examine such records.

6 3 Definitions. Amend RSA 78:1, III to read as follows:

7 III. "Manufacturer" means any person engaged in the business of importing, exporting,  
8 producing, or manufacturing tobacco products, ***other than products defined as premium cigars***  
9 ***under RSA 78:1, XXI***, who sells his ***or her*** product only to licensed wholesalers.

10 4 Definitions. RSA 78:1, XXI is repealed and reenacted to read as follows:

11 XXI. "Premium cigars" means cigars which:

12 (a) Are made entirely by hand of all natural tobacco leaf;

13 (b) Are hand constructed and hand wrapped;

14 (c) Are sold by a manufacturer for an established price of \$1.50 or more, exclusive of any  
15 discount or other reduction;

16 (d) Weigh more than 3 pounds per 1000 cigars; and

17 (e) Are kept in a humidor.

18 5 New Paragraph; Definitions; Humidor. Amend RSA 78:1 by inserting after paragraph XXI the  
19 following new paragraph:

20 XXII. "Humidor" means a container or room specifically designed to store and age cigars  
21 within the optimal humidity range of 65 percent to 72 percent at room temperature, containing a  
22 humidification device or system designed to add or remove moisture from its interior space to  
23 maintain the desired level of humidity.

24 6 New Paragraph; Liquor Commission; Definitions. Amend RSA 175:1 by inserting after  
25 paragraph XXXVII the following new paragraph:

26 XXXVII-a. "Humidor" means a container or room specifically designed to store and age cigars  
27 within the optimal humidity range of 65 percent to 72 percent at room temperature, containing a  
28 humidification device or system designed to add or remove moisture from its interior space to  
29 maintain the desired level of humidity.

30 7 Effective Date. This act shall take effect 60 days after its passage.