

Senate File 417 - Introduced

SENATE FILE 417

BY BOLKCOM

(COMPANION TO HF 329 BY
MASCHER)

A BILL FOR

1 An Act relating to alternative nicotine products and vapor
2 products, and providing for taxation of such products.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 331.303, subsection 3, Code 2019, is
2 amended to read as follows:

3 3. Act upon applications for cigarette ~~tax~~, tobacco
4 product, alternative nicotine product, and vapor product
5 permits in accordance with [chapter 453A](#).

6 Sec. 2. Section 331.653, subsection 11, Code 2019, is
7 amended to read as follows:

8 11. Carry out duties relating to the seizure and forfeiture
9 of cigarettes, tobacco products, alternative nicotine products,
10 and vapor products, vehicles, and other property used in
11 violation of cigarette, tobacco product, alternative nicotine
12 product, or vapor product tax laws as provided in section
13 453A.32.

14 Sec. 3. Section 331.756, subsection 20, Code 2019, is
15 amended to read as follows:

16 20. Assist, at the request of the director of revenue,
17 in the enforcement of ~~cigar and~~ cigarette, tobacco product,
18 alternative nicotine product, and vapor product tax laws as
19 provided in [sections 453A.32](#) and [453A.49](#).

20 Sec. 4. Section 453A.15, subsection 4, Code 2019, is amended
21 to read as follows:

22 4. Every permit holder or other person shall, when requested
23 by the department, make additional reports as the department
24 deems necessary and proper and shall at the request of the
25 department furnish full and complete information pertaining to
26 any transaction of the permit holder or other person involving
27 the purchase or sale or use of cigarettes, alternative nicotine
28 products, or vapor products, or purchase of cigarette stamps.
29 The director shall specifically prescribe the forms necessary
30 and require each retailer to provide on the forms prescribed,
31 full and complete information pertaining to any cigarettes,
32 alternative nicotine products, or vapor products offered for
33 sale or sold by the retailer, including the type and brand of
34 the product.

35 Sec. 5. Section 453A.24, subsection 2, Code 2019, is amended

1 to read as follows:

2 2. The director may require by rule that common carriers
3 or the appropriate persons provide monthly reports to the
4 department detailing all information the department deems
5 necessary on shipments into and out of Iowa of cigarettes,
6 ~~and tobacco products,~~ alternative nicotine products, or vapor
7 products, as set forth in this **subchapter I** and subchapter II
8 of this chapter. The director may require by rule that the
9 reports be filed by electronic transmission.

10 Sec. 6. Section 453A.32, subsection 6, Code 2019, is amended
11 to read as follows:

12 6. The provisions of **this section** applying to cigarettes
13 shall also apply to tobacco products, alternative nicotine
14 products, and vapor products taxed under subchapter II of this
15 chapter.

16 Sec. 7. Section 453A.33, Code 2019, is amended to read as
17 follows:

18 **453A.33 Seizure not to affect criminal prosecution.**

19 The seizure, forfeiture, and sale of cigarettes, tobacco
20 products, alternative nicotine products, vapor products, and
21 other property under the terms and conditions ~~hereinabove set~~
22 ~~out~~ pursuant to section 453A.32, shall not constitute any
23 defense to the person owning or having control or possession of
24 the property from criminal prosecution for any act or omission
25 made or offense committed under **this chapter** or from liability
26 to pay penalties provided by **this chapter**.

27 Sec. 8. Section 453A.35, subsection 1, paragraph b, Code
28 2019, is amended to read as follows:

29 *b.* The revenues generated from the tax on cigarettes
30 pursuant to **section 453A.6, subsection 1,** and from the tax on
31 tobacco products, alternative nicotine products, and vapor
32 products as specified in section 453A.43, subsections 1, 2, 3,
33 and 4, shall be credited to the health care trust fund created
34 in **section 453A.35A.**

35 Sec. 9. Section 453A.35A, subsection 1, Code 2019, is

1 amended to read as follows:

2 1. A health care trust fund is created in the office of
3 the treasurer of state. The fund consists of the revenues
4 generated from the tax on cigarettes pursuant to section
5 453A.6, subsection 1, and from the tax on tobacco products,
6 alternative nicotine products, and vapor products as specified
7 in [section 453A.43, subsections 1, 2, 3, and 4](#), that are
8 credited to the health care trust fund, annually, pursuant to
9 section 453A.35. Moneys in the fund shall be separate from
10 the general fund of the state and shall not be considered
11 part of the general fund of the state. However, the fund
12 shall be considered a special account for the purposes of
13 section 8.53 relating to generally accepted accounting
14 principles. Moneys in the fund shall be used only as specified
15 in [this section](#) and shall be appropriated only for the uses
16 specified. Moneys in the fund are not subject to [section 8.33](#)
17 and shall not be transferred, used, obligated, appropriated,
18 or otherwise encumbered, except as provided in [this section](#).
19 Notwithstanding [section 12C.7, subsection 2](#), interest or
20 earnings on moneys deposited in the fund shall be credited to
21 the fund.

22 Sec. 10. Section 453A.39, subsection 1, Code 2019, is
23 amended to read as follows:

24 1. A manufacturer, distributor, wholesaler, retailer, or
25 distributing agent, or an agent thereof of a manufacturer,
26 distributor, wholesaler, retailer, or distributing agent, shall
27 not give away cigarettes, ~~or~~ tobacco products, alternative
28 nicotine products, or vapor products, at any time in connection
29 with the manufacturer's, distributor's, wholesaler's,
30 retailer's, or distributing agent's business or for promotion
31 of the business or product, except as provided in [subsection 2](#).

32 Sec. 11. Section 453A.40, subsection 1, Code 2019, is
33 amended to read as follows:

34 1. All persons required to obtain a permit or to be licensed
35 under [section 453A.13](#) or [section 453A.44](#) having in their

1 possession and held for resale on the effective date of an
2 increase in the tax rate cigarettes, little cigars, ~~or~~ tobacco
3 products, alternative nicotine products, or vapor products upon
4 which the tax under [section 453A.6](#) or [453A.43](#) has been paid,
5 unused cigarette tax stamps which have been paid for under
6 [section 453A.8](#), unused metered imprints which have been paid
7 for under [section 453A.12](#), or tobacco products, alternative
8 nicotine products, or vapor products for which the tax has
9 not been paid under [section 453A.46](#) shall be subject to an
10 inventory tax on the items as provided in [this section](#).

11 Sec. 12. Section 453A.42, Code 2019, is amended to read as
12 follows:

13 **453A.42 Definitions.**

14 When used in [this subchapter](#), unless the context clearly
15 indicates otherwise, the following terms shall have the
16 meanings, respectively, ascribed to them in [this section](#):

17 1. "*Business*" means any trade, occupation, activity,
18 or enterprise engaged in for the purpose of selling or
19 distributing tobacco products, alternative nicotine products,
20 or vapor products in this state.

21 2. "*Consumer*" means any person who has title to or
22 possession of tobacco products, alternative nicotine products,
23 or vapor products in storage, for use or other consumption in
24 this state.

25 3. "*Delivery sale*" means any sale of an alternative nicotine
26 product or a vapor product to a purchaser in this state where
27 the purchaser submits the order for such sale by means of a
28 telephonic or other method of voice transmission, mail or any
29 other delivery service, or the internet or other online service
30 and the alternative nicotine product or vapor product is
31 delivered by use of mail or a delivery service. The sale of an
32 alternative nicotine product or vapor product shall constitute
33 a delivery sale regardless of whether the seller is located
34 in this state. "*Delivery sale*" does not include a sale to a
35 distributor or retailer of any alternative nicotine product or

1 vapor product not for personal consumption.

2 4. "Director" means the director of the department of
3 revenue.

4 5. "Distributor" means any ~~and each~~ of the following:

5 a. Any person engaged in the business of selling tobacco
6 products, alternative nicotine products, or vapor products
7 in this state who brings, or causes to be brought, into this
8 state from without the state any tobacco products, alternative
9 nicotine products, or vapor products for sale~~;~~.

10 b. Any person who makes, manufactures, or fabricates tobacco
11 products, alternative nicotine products, or vapor products in
12 this state for sale in this state~~;~~.

13 c. Any person engaged in the business of selling tobacco
14 products, alternative nicotine products, or vapor products
15 without this state who ships or transports tobacco products,
16 alternative nicotine products, or vapor products to retailers
17 in this state, to be sold by those retailers.

18 6. "Little cigar" means any roll for smoking which meets all
19 of the following conditions:

20 a. Is made wholly or in part of tobacco, irrespective of
21 size or shape and irrespective of tobacco being flavored,
22 adulterated, or mixed with any other ingredient~~;~~.

23 b. Is not a cigarette as defined in section 453A.1,
24 subsection 4~~;~~ ~~and~~.

25 c. Either weighs not more than three pounds per thousand,
26 irrespective of retail price, or weighs more than three pounds
27 per thousand and has a retail price of not more than two
28 and one-half cents per little cigar. For purposes of this
29 subsection, the retail price is the ordinary retail price in
30 this state, not including retail sales tax, use tax, or the tax
31 on little cigars imposed by [section 453A.43](#).

32 7. "Manufacturer" means a person who manufactures and sells
33 tobacco products, alternative nicotine products, or vapor
34 products.

35 8. "Person" means any individual, firm, association,

1 partnership, joint stock company, joint ~~adventure~~ venture,
2 corporation, trustee, agency, or receiver, or any legal
3 representative of any ~~of the foregoing~~ individual, firm,
4 association, partnership, joint stock company, joint venture,
5 corporation, trustee, agency, or receiver.

6 9. "*Place of business*" means any place where tobacco
7 products alternative nicotine products, or vapor products are
8 sold or where tobacco products, alternative nicotine products,
9 or vapor products are manufactured, stored, or kept for the
10 purpose of sale or consumption, including any vessel, vehicle,
11 airplane, train, or vending machine; or for a business within
12 or without the state that conducts delivery sales, any place
13 where alternative nicotine products or vapor products are sold
14 or where alternative nicotine products or vapor products are
15 kept for the purpose of sale, including delivery sales.

16 10. "*Retail outlet*" means each place of business from which
17 tobacco products, alternative nicotine products, or vapor
18 products are sold to consumers.

19 11. "*Retailer*" means any person engaged in the business
20 of selling tobacco, tobacco products, alternative nicotine
21 products, or vapor products to ultimate consumers.

22 12. "*Sale*" means any transfer, exchange, or barter, in any
23 manner or by any means whatsoever, for a consideration, and
24 includes and means all sales made by any person. It includes
25 a gift by a person engaged in the business of selling tobacco
26 products, alternative nicotine products, or vapor products
27 for advertising, as a means of evading the provisions of this
28 subchapter, or for any other purposes ~~whatsoever~~.

29 13. "*Snuff*" means any finely cut, ground, or powdered
30 tobacco that is not intended to be smoked.

31 14. "*Storage*" means any keeping or retention of tobacco
32 products, alternative nicotine products, or vapor products for
33 use or consumption in this state.

34 15. "*Subjobber*" means any person, other than a manufacturer
35 or distributor, who buys tobacco products, alternative nicotine

1 products, or vapor products from a distributor and sells them
2 to persons other than the ultimate consumers.

3 16. "*Tobacco products*" means cigars; little cigars as
4 defined herein; cheroots; stogies; periques; granulated, plug
5 cut, crimp cut, ready rubbed, and other smoking tobacco;
6 snuff; cavendish; plug and twist tobacco; fine-cut and other
7 chewing tobaccos; shorts; refuse scraps, clippings, cuttings
8 and sweepings of tobacco, and other kinds and forms of tobacco,
9 prepared in such manner as to be suitable for chewing or
10 smoking in a pipe or otherwise, or both for chewing and
11 smoking; but shall not include cigarettes as defined in section
12 453A.1, subsection 4.

13 17. "*Use*" means the exercise of any right or power
14 incidental to the ownership of tobacco products, alternative
15 nicotine products, or vapor products.

16 18. "*Wholesale sales price*" means the established price
17 for which a manufacturer sells a tobacco product, alternative
18 nicotine product, or vapor product to a distributor, exclusive
19 of any discount or other reduction.

20 Sec. 13. Section 453A.43, Code 2019, is amended to read as
21 follows:

22 **453A.43 Tax on tobacco products, alternative nicotine**
23 **products, and vapor products.**

24 1. a. A tax is imposed upon all tobacco products,
25 alternative nicotine products, and vapor products in
26 this state and upon any person engaged in business as a
27 distributor of tobacco products, at the rate of ~~twenty-two~~
28 fifty percent of the wholesale sales price of the tobacco
29 products, ~~except little cigars and snuff as defined in section~~
30 ~~453A.42~~ alternative nicotine products, or vapor products.

31 Notwithstanding the rate of tax imposed under this paragraph "a"
32 on tobacco products, little cigars and snuff shall be subject
33 to the tax as specified pursuant to paragraph "c".

34 ~~b. In addition to the tax imposed under paragraph "a", a~~
35 ~~tax is imposed upon all tobacco products in this state and upon~~

~~1 any person engaged in business as a distributor of tobacco
2 products, at the rate of twenty-eight percent of the wholesale
3 sales price of the tobacco products, except little cigars and
4 snuff as defined in [section 453A.42](#).~~

5 ~~*c.*~~ *b.* Notwithstanding the rate of tax imposed pursuant
6 to ~~paragraphs~~ paragraph "a" and ~~"b"~~, if the tobacco product
7 is a cigar, the total amount of the tax imposed pursuant to
8 ~~paragraphs~~ paragraph "a" and ~~"b"~~ combined shall not exceed fifty
9 cents per cigar.

10 ~~*d.*~~ *c.* Little cigars shall be subject to the same rate of
11 tax imposed upon cigarettes in [section 453A.6](#), payable at the
12 time and in the manner provided in [section 453A.6](#); and stamps
13 shall be affixed as provided in [subchapter I of this chapter](#).
14 Snuff shall be subject to the tax as provided in subsections 3
15 and 4.

16 ~~*e.*~~ *d.* The taxes on tobacco products, ~~excluding little
17 cigars and snuff,~~ alternative nicotine products, and vapor
18 products, as specified pursuant to paragraph "a" shall be
19 imposed at the time the distributor does any of the following:

20 (1) Brings, or causes to be brought, into this state
21 from outside the state tobacco products alternative nicotine
22 products, or vapor products for sale.

23 (2) Makes, manufactures, or fabricates tobacco products
24 alternative nicotine products, or vapor products in this state
25 for sale in this state.

26 (3) Ships or transports tobacco products alternative
27 nicotine products, or vapor products to retailers in this
28 state, to be sold by those retailers.

29 2. *a.* A tax is imposed upon the use or storage by consumers
30 of tobacco products alternative nicotine products, and vapor
31 products in this state, and upon the consumers, at the rate of
32 ~~twenty-two~~ fifty percent of the cost of the tobacco products
33 alternative nicotine products, or vapor products.

34 ~~*b.*~~ In addition to the tax imposed in paragraph "a", a tax
35 is imposed upon the use or storage by consumers of tobacco

1 ~~products in this state, and upon the consumers, at a rate of~~
2 ~~twenty-eight percent of the cost of the tobacco products.~~

3 ~~e.~~ b. Notwithstanding the rate of tax imposed pursuant
4 to ~~paragraphs~~ paragraph "a" and "~~b~~", if the tobacco product
5 is a cigar, the total amount of the tax imposed pursuant to
6 ~~paragraphs~~ paragraph "a" and "~~b~~" combined shall not exceed fifty
7 cents per cigar.

8 ~~d.~~ c. The taxes imposed by this subsection shall not apply
9 if the taxes imposed by subsection 1 on the tobacco products,
10 alternative nicotine products, or vapor products have been
11 paid.

12 ~~e.~~ d. The taxes imposed under this subsection shall not
13 apply to the use or storage of tobacco products in quantities
14 of:

15 (1) Less than twenty-five cigars.

16 (2) Less than one pound smoking or chewing tobacco or other
17 tobacco products not specifically mentioned herein in this
18 chapter, in the possession of any one consumer.

19 3. A tax is imposed upon all snuff in this state and upon
20 any person engaged in business as a distributor of snuff at
21 the rate of one dollar and nineteen cents per ounce, with a
22 proportionate tax at the same rate on all fractional parts of
23 an ounce of snuff. The tax shall be computed based on the net
24 weight listed by the manufacturer. The tax on snuff shall be
25 imposed at the time the distributor does any of the following:

26 a. Brings or causes to be brought into this state from
27 outside the state, snuff for sale.

28 b. Makes, manufactures, or fabricates snuff in this state
29 for sale in this state.

30 c. Ships or transports snuff to retailers in this state, to
31 be sold by those retailers.

32 4. a. A tax is imposed upon the use or storage by consumers
33 of snuff in this state, and upon the consumers, at the rate of
34 one dollar and nineteen cents per ounce with a proportionate
35 tax at the same rate on all fractional parts of an ounce of

1 snuff. The tax shall be computed based on the net weight as
2 listed by the manufacturer.

3 b. The tax imposed by [this subsection](#) shall not apply if the
4 tax imposed by [subsection 3](#) on snuff has been paid.

5 c. The tax shall not apply to the use or storage of snuff in
6 quantities of less than ten ounces.

7 5. Any tobacco product alternative nicotine product, or
8 vapor product with respect to which a tax has once been imposed
9 under [this subchapter](#) shall not again be subject to tax under
10 this subchapter, except as provided in [section 453A.40](#).

11 6. The tax imposed by [this section](#) shall not apply with
12 respect to any tobacco product which under the Constitution
13 alternative nicotine product, or vapor product and laws of the
14 United States may not be made the subject of taxation by this
15 state.

16 7. The tax imposed by [this section](#) shall be in addition to
17 all other occupation or privilege taxes or license fees ~~now or~~
18 ~~hereafter~~ imposed by any city or county.

19 8. All excise taxes collected under [this chapter](#) by a
20 distributor or any individual are deemed to be held in trust
21 for the state of Iowa.

22 Sec. 14. Section 453A.44, subsections 1, 3, and 10, Code
23 2019, are amended to read as follows:

24 1. ~~No~~ A person shall not engage in the business of a
25 distributor or subjobber of tobacco products, alternative
26 nicotine products, or vapor products at any place of business
27 without first having received a license from the director to
28 engage in that business at that place of business.

29 3. A person without this state who ships or transports
30 tobacco products, alternative nicotine products, or vapor
31 products to retailers in this state, to be sold by those
32 retailers, may make application for a license as a distributor,
33 be granted a license by the director, and thereafter be subject
34 to all the provisions of [this subchapter](#) and entitled to act as
35 a licensed distributor.

1 10. The director may revoke, cancel, or suspend the
2 license or licenses of any distributor or subjobber for
3 violation of any of the provisions of this subchapter, or
4 any other act applicable to the sale of tobacco products,
5 alternative nicotine products, or vapor products, or any rule
6 or regulations promulgated by the director in furtherance of
7 this subchapter. No license shall be revoked, canceled, or
8 suspended except after notice and a hearing by the director as
9 provided in section 453A.48.

10 Sec. 15. Section 453A.45, Code 2019, is amended to read as
11 follows:

12 **453A.45 Licensees, duties.**

13 1. *a.* Every distributor shall keep at each licensed
14 place of business complete and accurate records for that
15 place of business, including itemized invoices, of tobacco
16 products, alternative nicotine products, or vapor products
17 held, purchased, manufactured, brought in or caused to be
18 brought in from without the state, or shipped or transported to
19 retailers in this state, and of all sales of tobacco products,
20 alternative nicotine products, and vapor products made, except
21 sales to the ultimate consumer.

22 *b.* When a licensed distributor sells tobacco products,
23 alternative nicotine products, or vapor products exclusively to
24 the ultimate consumer at the address given in the license, an
25 invoice of those sales is not required, but itemized invoices
26 shall be made of all tobacco products, alternative nicotine
27 products, and vapor products transferred to other retail
28 outlets owned or controlled by that licensed distributor. All
29 books, records, and other papers and documents required by
30 this subsection to be kept shall be preserved for a period
31 of at least three years after the date of the documents or
32 the date of the entries appearing in the records, unless the
33 director, in writing, authorized their destruction or disposal
34 at an earlier date. At any time during usual business hours,
35 the director, or the director's duly authorized agents or

1 employees, may enter any place of business of a distributor,
2 without a search warrant, and inspect the premises, the records
3 required to be kept under this subsection, and the tobacco
4 products, alternative nicotine products, and vapor products
5 contained ~~therein~~ at the place of business, to determine if
6 all the provisions of this subchapter are being fully complied
7 with. If the director, or any such agent or employee, is
8 denied free access or is hindered or interfered with in
9 making the examination, the license of the distributor at that
10 premises is subject to revocation by the director.

11 2. Every person who sells tobacco products, alternative
12 nicotine products, or vapor products to persons other than the
13 ultimate consumer shall render with each sale itemized invoices
14 showing the seller's name and address, the purchaser's name and
15 address, the date of sale, and all prices and discounts. The
16 person shall preserve legible copies of all these invoices for
17 three years from the date of sale.

18 3. Every retailer and subjobber shall procure itemized
19 invoices of all tobacco products, alternative nicotine
20 products, and vapor products purchased. The invoices shall
21 show the name and address of the seller and the date of
22 purchase. The retailer and subjobber shall preserve a legible
23 copy of each invoice for three years from the date of purchase.
24 Invoices shall be available for inspection by the director or
25 the director's authorized agents or employees at the retailer's
26 or subjobber's place of business.

27 4. Records of all deliveries or shipments of tobacco
28 products, alternative nicotine products, or vapor products from
29 any public warehouse of first destination in this state which
30 is subject to the provisions of and licensed under chapter
31 554 shall be kept by the warehouse and be available to the
32 director for inspection. They shall show the name and address
33 of the consignee, the date, the quantity of tobacco products,
34 alternative nicotine products, or vapor products delivered,
35 and such other information as the commissioner may require.

1 These records shall be preserved for three years from the date
2 of delivery of the tobacco products, alternative nicotine
3 products, or vapor products.

4 5. a. The transportation of tobacco products, alternative
5 nicotine products, or vapor products into this state by means
6 other than common carrier must be reported to the director
7 within thirty days with the following exceptions:

8 (1) The transportation of not more than fifty cigars, not
9 more than ten ounces of snuff or snuff powder, or not more
10 than one pound of smoking or chewing tobacco or other tobacco
11 products not specifically ~~mentioned herein,~~ specified under
12 this subparagraph.

13 (2) Transportation by a person with a place of business
14 outside the state, who is licensed as a distributor under
15 section 453A.44, or tobacco products, alternative nicotine
16 products, or vapor products sold by such person to a retailer
17 in this state.

18 b. The report shall be made on forms provided by the
19 director. The director may require by rule that the report be
20 filed by electronic transmission.

21 c. Common carriers transporting tobacco products,
22 alternative nicotine products, or vapor products into this
23 state shall file with the director reports of all such
24 shipments other than those which are delivered to public
25 warehouses of first destination in this state which are
26 licensed under the provisions of [chapter 554](#). Such reports
27 shall be filed on or before the tenth day of each month and
28 shall show with respect to deliveries made in the preceding
29 month; the date, point of origin, point of delivery, name
30 of consignee, description and quantity of tobacco products,
31 alternative nicotine products, or vapor products delivered, and
32 such information as the director may otherwise require.

33 d. Any person who fails or refuses to transmit to the
34 director the required reports or whoever refuses to permit the
35 examination of the records by the director shall be guilty of

1 a serious misdemeanor.

2 Sec. 16. Section 453A.46, subsection 1, paragraph a, Code
3 2019, is amended to read as follows:

4 a. On or before the twentieth day of each calendar month
5 every distributor with a place of business in this state shall
6 file a return with the director showing for the preceding
7 calendar month the quantity and wholesale sales price of
8 each tobacco product, alternative nicotine product, or vapor
9 product brought, or caused to be brought, into this state for
10 sale; made, manufactured, or fabricated in this state for sale
11 in this state; and any other information the director may
12 require. Every licensed distributor outside this state shall
13 in like manner file a return with the director showing for
14 the preceding calendar month the quantity and wholesale sales
15 price of each tobacco product, alternative nicotine product,
16 or vapor product shipped or transported to retailers in this
17 state to be sold by those retailers and any other information
18 the director may require. Returns shall be made upon forms
19 furnished or made available in electronic form and prescribed
20 by the director and shall contain other information as the
21 director may require. Each return shall be accompanied by a
22 remittance for the full tax liability shown on the return, less
23 a discount as fixed by the director not to exceed five percent
24 of the tax. Within three years after the return is filed or
25 within three years after the return became due, whichever is
26 later, the department shall examine it, determine the correct
27 amount of tax, and assess the tax against the taxpayer for any
28 deficiency. The period for examination and determination of
29 the correct amount of tax is unlimited in the case of a false or
30 fraudulent return made with the intent to evade tax, or in the
31 case of a failure to file a return.

32 Sec. 17. Section 453A.46, subsection 6, Code 2019, is
33 amended to read as follows:

34 6. On or before the twentieth day of each calendar month,
35 every consumer who, during the preceding calendar month,

1 has acquired title to or possession of tobacco products,
2 alternative nicotine products, or vapor products for use or
3 storage in this state, upon which tobacco products, alternative
4 nicotine products, or vapor products the tax imposed by
5 section 453A.43 has not been paid, shall file a return with the
6 director showing the quantity of tobacco products, alternative
7 nicotine products, or vapor products so acquired. The return
8 shall be made upon a form furnished and prescribed by the
9 director, and shall contain other information as the director
10 may require. The return shall be accompanied by a remittance
11 for the full unpaid tax liability shown by it. Within three
12 years after the return is filed or within three years after the
13 return became due, whichever is later, the department shall
14 examine it, determine the correct amount of tax, and assess the
15 tax against the taxpayer for any deficiency. The period for
16 examination and determination of the correct amount of tax is
17 unlimited in the case of a false or fraudulent return made with
18 the intent to evade tax, or in the case of a failure to file a
19 return.

20 Sec. 18. Section 453A.47, Code 2019, is amended to read as
21 follows:

22 **453A.47 Refunds, credits.**

23 Where tobacco products, alternative nicotine products, or
24 vapor products upon which the tax imposed by **this subchapter**
25 has been reported and paid are shipped or transported by the
26 distributor to consumers to be consumed without the state
27 or to retailers or subjobbers without the state to be sold
28 by those retailers or subjobbers without the state or are
29 returned to the manufacturer by the distributor or destroyed
30 by the distributor, refund of such tax or credit may be made
31 to the distributor in accordance with regulations prescribed
32 by the director. Any overpayment of the tax imposed under
33 section 453A.43 may be made to the taxpayer in accordance with
34 regulations prescribed by the director. The director shall
35 cause any such refund of tax to be paid out of the general fund

1 of the state, and so much of said fund as may be necessary is
2 hereby appropriated for that purpose.

3 Sec. 19. Section 453A.47A, subsection 10, paragraph b, Code
4 2019, is amended to read as follows:

5 *b.* Every retailer shall, when requested by the department,
6 make additional reports as the department deems necessary and
7 proper and shall at the request of the department furnish
8 full and complete information pertaining to any transaction
9 of the retailer involving the purchase or sale or use of
10 tobacco, tobacco products, alternative nicotine products, or
11 vapor products. The director shall specifically prescribe the
12 forms necessary and require each retailer to provide on the
13 forms prescribed full and complete information pertaining to
14 any tobacco, tobacco products, alternative nicotine products,
15 or vapor products offered for sale or sold by the retailer,
16 including the type and brand of the product.

17 Sec. 20. Section 453A.48, subsection 3, Code 2019, is
18 amended to read as follows:

19 3. The director may exchange information with the officers
20 and agencies of other states administering laws relating to the
21 taxation of tobacco products, alternative nicotine products,
22 and vapor products.

23 Sec. 21. Section 453A.51, Code 2019, is amended to read as
24 follows:

25 **453A.51 Assessment of cost of audit.**

26 The department may employ auditors or other persons to
27 audit and examine the books and records of a permit holder
28 or other person dealing in tobacco products, alternative
29 nicotine products, or vapor products to ascertain whether
30 the permit holder or other person has paid the amount of the
31 taxes required to be paid by the permit holder or other person
32 under the provisions of **this chapter**. If the taxes have not
33 been paid, as required, the department shall assess against
34 the permit holder or other person, as additional penalty, the
35 reasonable expenses and costs of the investigation and audit.

1

EXPLANATION

2

The inclusion of this explanation does not constitute agreement with
the explanation's substance by the members of the general assembly.

3

4

This bill relates to cigarettes, tobacco products,
alternative nicotine products, and vapor products under Code
chapter 453A (cigarette and tobacco taxes and regulation of
alternative nicotine products and vapor products). The bill
imposes a tax on alternative nicotine products and vapor
products equivalent to the tax on tobacco products.

10

The bill makes conforming provisions throughout the Code to
make administration and collection of the tax on alternative
nicotine products and vapor products the same as for tobacco
products.

14

The bill provides that under the director of revenue's
authorization to require permit holders to make additional
reports, the director shall specifically prescribe the forms
necessary and require each retailer to provide on the forms
prescribed, full and complete information pertaining to any
cigarettes, alternative nicotine products, or vapor products
offered for sale or sold by the retailer, including the type
and brand of the product.

21