

#### **453A.42 Definitions.**

When used in this division, unless the context clearly indicates otherwise, the following terms shall have the meanings, respectively, ascribed to them in this section:

1. *"Business"* means any trade, occupation, activity, or enterprise engaged in for the purpose of selling or distributing tobacco products in this state.
2. *"Consumer"* means any person who has title to or possession of tobacco products in storage, for use or other consumption in this state.
3. *"Director"* means the director of the department of revenue.
4. *"Distributor"* means any and each of the following:
  - a. Any person engaged in the business of selling tobacco products in this state who brings, or causes to be brought, into this state from without the state any tobacco products for sale;
  - b. Any person who makes, manufactures, or fabricates tobacco products in this state for sale in this state;
  - c. Any person engaged in the business of selling tobacco products without this state who ships or transports tobacco products to retailers in this state, to be sold by those retailers.
5. *"Little cigar"* means any roll for smoking which:
  - a. Is made wholly or in part of tobacco, irrespective of size or shape and irrespective of tobacco being flavored, adulterated, or mixed with any other ingredient;
  - b. Is not a cigarette as defined in section 453A.1, subsection 3; and
  - c. Either weighs not more than three pounds per thousand, irrespective of retail price, or weighs more than three pounds per thousand and has a retail price of not more than two and one-half cents per little cigar. For purposes of this subsection, the retail price is the ordinary retail price in this state, not including retail sales tax, use tax, or the tax on little cigars imposed by section 453A.43.
6. *"Manufacturer"* means a person who manufactures and sells tobacco products.
7. *"Person"* means any individual, firm, association, partnership, joint stock company, joint adventure, corporation, trustee, agency, or receiver, or any legal representative of any of the foregoing.
8. *"Place of business"* means any place where tobacco products are sold or where tobacco products are manufactured, stored, or kept for the purpose of sale or consumption, including any vessel, vehicle, airplane, train, or vending machine.
9. *"Retail outlet"* means each place of business from which tobacco products are sold to consumers.
10. *"Retailer"* means any person engaged in the business of selling tobacco products to ultimate consumers.
11. *"Sale"* means any transfer, exchange, or barter, in any manner or by any means whatsoever, for a consideration, and includes and means all sales made by any person. It includes a gift by a person engaged in the business of selling tobacco products, for advertising, as a means of evading the provisions of this division, or for any other purposes whatsoever.

12. *"Storage"* means any keeping or retention of tobacco products for use or consumption in this state.
13. *"Subjobber"* means any person, other than a manufacturer or distributor, who buys tobacco products from a distributor and sells them to persons other than the ultimate consumers.
14. *"Tobacco products"* means cigars; little cigars as defined herein; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking; but shall not include cigarettes as defined in section 453A.1, subsection 3.
15. *"Use"* means the exercise of any right or power incidental to the ownership of tobacco products.
16. *"Wholesale sales price"* means the established price for which a manufacturer sells a tobacco product to a distributor, exclusive of any discount or other reduction.

[C71, 73, 75, 77, 79, 81, § 98.42]

86 Acts, ch 1245, § 402

C93, § 453A.42

2002 Acts, ch 1119, §59; 2003 Acts, ch 145, §286