

453A.1 Definitions.

The following words, terms, and phrases, when used in [this chapter](#), shall, for the purpose of [this chapter](#), have the meanings respectively ascribed to them.

1. “*Alternative nicotine product*” means a product, not consisting of or containing tobacco, that provides for the ingestion into the body of nicotine, whether by chewing, absorbing, dissolving, inhaling, snorting, or sniffing, or by any other means. “*Alternative nicotine product*” does not include cigarettes, tobacco products, or vapor products, or a product that is regulated as a drug or device by the United States food and drug administration under chapter V of the federal Food, Drug, and Cosmetic Act.

2. “*Attorney general*” shall mean the attorney general of the state or the attorney general’s duly authorized assistants and employees.

3. “*Carton*” means a box or container of any kind in which ten or more packages or packs of cigarettes or tobacco products are offered for sale, sold, or otherwise distributed to consumers.

4. “*Cigarette*” means any roll for smoking made wholly or in part of tobacco, or any substitute for tobacco, irrespective of size or shape and irrespective of tobacco or any substitute for tobacco being flavored, adulterated, or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material. However, “*cigarette*” shall not be construed to include cigars.

5. “*Cigarette vending machine*” means any self-service device offered for public use which, upon payment or insertion of loose tobacco product, dispenses, or assembles and dispenses, cigarettes or tobacco products.

6. “*Cigarette vendor*” means any person who by contract, agreement, or ownership takes responsibility for furnishing, installing, servicing, operating, or maintaining one or more cigarette vending machines for the purpose of selling cigarettes at retail.

7. “*Counterfeit stamp*” shall mean any stamp, label, print, indicium, or character which evidences, or purports to evidence the payment of any tax levied by [this chapter](#), and which stamp, label, print, indicium, or character has not been printed, manufactured or made by authority of the director as hereinafter provided, and issued, sold or circulated by the department.

8. “*Delivery sale*” means any sale of an alternative nicotine product or a vapor product to a purchaser in this state where the purchaser submits the order for such sale by means of a telephonic or other method of voice transmission, mail or any other delivery service, or the internet or other online service and the alternative nicotine product or vapor product is delivered by use of mail or a delivery service. The sale of an alternative nicotine product or vapor product shall constitute a delivery sale regardless of whether the seller is located in this state. “*Delivery sale*” does not include a sale to a distributor or retailer of any alternative nicotine product or vapor product not for personal consumption.

9. “*Department*” means the department of revenue.

10. “*Director*” means the director of revenue or the director’s duly authorized assistants and employees.

11. “*Distributing agent*” shall mean and include every person in this state who acts as an agent of any manufacturer outside of the state by storing cigarettes received in interstate commerce from such manufacturer subject to distribution or delivery to distributors upon orders received by said manufacturer in interstate commerce and transmitted to such distributing agent for fulfillment from such place of storage.

12. “*Distributing agent’s permit*” shall mean and include permits issued by the department to distributing agents.

13. “*Distributor*” shall mean and include every person in this state who manufactures or produces cigarettes or who ships, transports, or imports into this state or in any manner acquires or possesses cigarettes without stamps affixed for the purpose of making a “first sale” of the same within the state.

14. “*Drop shipment*” shall mean and include any delivery of cigarettes received by any person within this state when payment for such cigarettes is made to the shipper or seller by or through a person other than the consignee.

15. “*First sale*” shall mean and include the first sale or distribution of cigarettes in intrastate commerce, or the first use or consumption of cigarettes within this state.

16. “*Individual packages of cigarettes*” shall mean and include every package of cigarettes or quantity of cigarettes assembled and ordinarily sold at retail.

17. “*Manufacturer*” shall mean and include every person who ships cigarettes into this state from outside the state.

18. “*Manufacturer’s permit*” shall mean and include permits issued by the department to a manufacturer.

19. “*Package*” or “*pack*” means a container of any kind in which cigarettes or tobacco products are offered for sale, sold, or otherwise distributed to consumers.

20. “*Person*” shall mean and include every individual, firm, association, joint stock company, syndicate, partnership, corporation, trustee, agency or receiver, or respective legal representative.

21. “*Place of business*” is construed to mean and include any place where cigarettes are sold or where cigarettes are stored within or without the state of Iowa by the holder of an Iowa permit or kept for the purpose of sale or consumption; or if sold from any vehicle or train, the vehicle or train on which or from which such cigarettes are sold shall constitute a place of business; or for a business within or without the state that conducts delivery sales, any place where alternative nicotine products or vapor products are sold or where alternative nicotine products or vapor products are kept for the purpose of sale.

22. “*Previously used stamp*” shall mean and include any stamp which is used, sold, or possessed for the purpose of sale or use, to evidence the payment of the tax herein imposed on an individual package of cigarettes after said stamp has, anterior to such use, sale, or possession, been used on a previous or separate individual package of cigarettes to evidence the payment of tax as aforesaid.

23. “*Retailer*” shall mean and include every person in this state who shall sell, distribute, or offer for sale for consumption or possess for the purpose of sale for consumption, cigarettes, alternative nicotine products, or vapor products irrespective of quantity or amount or the number of sales.

24. “*Retail permit*” shall mean and include permits issued to retailers.

25. “*Self-service display*” means any manner of product display, placement, or storage from which a person purchasing the product may take possession of the product, prior to purchase, without assistance from the retailer or employee of the retailer, in removing the product from a restricted access location.

26. “*Stamps*” means the stamp or stamps printed, manufactured or made by authority of the director and issued, sold or circulated by the department and by the use of which the tax levied is paid. It also means any impression, indicium, or character fixed upon packages of cigarettes by metered stamping machine or device which may be authorized by the director to the holder of state or manufacturers’ permits and by the use of which the tax levied is paid.

27. “*State permit*” shall mean and include permits issued by the department to distributors, wholesalers, and retailers.

28. “*Tobacco products*” means cigars; little cigars as defined in [section 453A.42, subsection 6](#); 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; or 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 does not mean cigarettes.

29. “*Vapor product*” means any noncombustible product, which may or may not contain nicotine, that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from a solution or other substance. “*Vapor product*” includes an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device, and any cartridge or other container of a solution or other substance, which may or may not contain nicotine, that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. “*Vapor product*” does

not include a product regulated as a drug or device by the United States food and drug administration under chapter V of the federal Food, Drug, and Cosmetic Act.

30. “Wholesaler” shall mean and include every person other than a distributor or distributing agent who engages in the business of selling or distributing cigarettes within the state, for the purpose of resale.

[C24, 27, 31, 35, 39, §1552; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §98.1]

86 Acts, ch 1245, §401; 91 Acts, ch 240, §1, 2

C93, §453A.1

98 Acts, ch 1129, §2; 2003 Acts, ch 145, §286; 2008 Acts, ch 1032, §106; 2012 Acts, ch 1110, §26; 2014 Acts, ch 1109, §1, 2; 2016 Acts, ch 1011, §74; 2017 Acts, ch 170, §61, 62

Referred to in §101B.2, 142A.2, 142A.6, 453A.3, 453A.5, 453A.22, 453A.36, 453A.42, 453A.47A