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SENATE BILL 178

**52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016**

INTRODUCED BY  
Cliff R. Pirtle

AN ACT

RELATING TO TAXATION; CHANGING THE TAX RATE FOR FINE CIGARS IN  
THE TOBACCO PRODUCTS TAX ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**SECTION 1.** Section 7-12A-2 NMSA 1978 (being Laws 1986,  
Chapter 112, Section 3, as amended) is amended to read:

"7-12A-2. DEFINITIONS.--As used in the Tobacco Products  
Tax Act:

A. "department" means the taxation and revenue  
department, the secretary or any employee of the department  
exercising authority lawfully delegated to that employee by the  
secretary;

B. "distribute" means to sell or to give;

C. "engaging in business" means carrying on or  
causing to be carried on any activity with the purpose of

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1 direct or indirect benefit;

2 D. "fine cigar" means a roll of tobacco that is  
3 wrapped in one hundred percent natural leaf tobacco;

4 [~~D.~~] E. "first purchaser" means a person engaging  
5 in business in New Mexico [~~who~~] that manufactures tobacco  
6 products or [~~who~~] that purchases or receives on consignment  
7 tobacco products from any person outside of New Mexico, which  
8 tobacco products are to be distributed in New Mexico in the  
9 ordinary course of business;

10 [~~E.~~] F. "person" means any individual, estate,  
11 trust, receiver, cooperative association, club, corporation,  
12 company, firm, partnership, joint venture, syndicate, limited  
13 liability company, limited liability partnership, other  
14 association or gas, water or electric utility owned or operated  
15 by a county or municipality or other entity of the state;  
16 "person" also means, to the extent permitted by law, a federal,  
17 state or other governmental unit or subdivision or an agency,  
18 department or instrumentality;

19 [~~F.~~] G. "product value" means the amount paid, net  
20 of any discounts taken and allowed, for tobacco products or, in  
21 the case of tobacco products received on consignment, the value  
22 of the tobacco products received or, in the case of tobacco  
23 products manufactured and sold in New Mexico, the proceeds from  
24 the sale by the manufacturer of the tobacco products; and

25 [~~G.~~] H. "tobacco product" means any product, other

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1 than cigarettes, made from or containing tobacco."

2 SECTION 2. Section 7-12A-3 NMSA 1978 (being Laws 1986,  
3 Chapter 112, Section 4, as amended) is amended to read:

4 "7-12A-3. IMPOSITION AND RATE OF TAX--DENOMINATION AS  
5 "TOBACCO PRODUCTS TAX"--DATE PAYMENT OF TAX DUE.--

6 A. For the manufacture or acquisition of tobacco  
7 products in New Mexico to be distributed in the ordinary course  
8 of business and for the consumption of tobacco products in New  
9 Mexico, there is imposed an excise tax at the [~~rate of twenty-~~  
10 ~~five percent of the product value of the tobacco products~~]  
11 following rates:

12 (1) if the tobacco product is not a fine  
13 cigar, twenty-five percent of the product value; and

14 (2) if the tobacco product is one or more fine  
15 cigars:

16 (a) five cents (\$.05) per cigar in a  
17 package containing one unit; and

18 (b) three cents (\$.03) per cigar in a  
19 package containing multiple units.

20 B. The tax imposed by Subsection A of this section  
21 may be referred to as the "tobacco products tax".

22 C. The tobacco products tax shall be paid by the  
23 first purchaser on or before the twenty-fifth day of the month  
24 following the month in which the taxable event occurs."

25 SECTION 3. EFFECTIVE DATE.--The effective date of the

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1 provisions of this act is July 1, 2016.

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