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BILL

51ST LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2014

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO PUBLIC HEALTH; ADDING NEW SECTIONS TO THE TAX
ADMINISTRATION ACT; REQUIRING REGISTRATION OF SELLERS OF E-
CIGARETTES AND RETENTION OF SALES RECORDS; PROVIDING PENALTIES
FOR FAILURE TO RETAIN RECORDS OF SALES; DECLARING AN EMERGENCY.

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

SECTION 1. A new section of the Tax Administration Act is
enacted to read:

"[NEW MATERIAL] DEFINITIONS.--As used in Sections 1
through 4 of this 2014 act:

A. "e-cigarette":

(1) means any electronic oral device, whether
composed of a heating element and battery or an electronic
circuit, that provides a vapor of nicotine or any other
substances the use or inhalation of which simulates smoking;

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underscoring material = new
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1 and

2 (2) includes any such device, whether
3 manufactured, distributed, marketed or sold as an e-cigarette,
4 e-cigar, e-pipe or any other product, name or descriptor; and

5 B. "engaging in business" means carrying on or
6 causing to be carried on any activity with the purpose of
7 direct or indirect benefit."

8 SECTION 2. A new section of the Tax Administration Act is
9 enacted to read:

10 "[NEW MATERIAL] REGISTRATION NECESSARY TO ENGAGE IN
11 BUSINESS OF SELLING E-CIGARETTES IN NEW MEXICO.--Each person
12 engaging in the business of selling e-cigarettes shall register
13 with the department and shall furnish such information as may
14 be requested by the department concerning the person's vending
15 machines or other places of business where e-cigarettes are
16 sold."

17 SECTION 3. A new section of the Tax Administration Act is
18 enacted to read:

19 "[NEW MATERIAL] RETENTION OF INVOICES AND RECORDS--
20 INSPECTION BY DEPARTMENT.--

21 A. Each person who sells e-cigarettes in New Mexico
22 for resale in New Mexico shall maintain a file of copies of the
23 invoices of sale for three years from the end of the year that
24 the sale was made. The invoices shall indicate the date of
25 sale of the e-cigarettes, the quantity of e-cigarettes sold,

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1 the price received and the name and address of the purchaser.

2 B. All invoices required to be kept under this
3 section may be inspected by the department along with any stock
4 of e-cigarettes in the possession of the purchaser or seller."

5 SECTION 4. A new section of the Tax Administration Act is
6 enacted to read:

7 "[NEW MATERIAL] PENALTIES.--Any person selling e-
8 cigarettes in New Mexico and required by the provisions of
9 Section 3 of this 2014 act to retain invoices who willfully
10 fails to retain the invoices shall, upon conviction thereof, be
11 fined not less than fifty dollars (\$50.00) or more than five
12 hundred dollars (\$500). Jurisdiction over such actions is
13 granted to the magistrate courts."

14 SECTION 5. EMERGENCY.--It is necessary for the public
15 peace, health and safety that this act take effect immediately.