

## HOUSE BILL NO. HB0282

Tobacco products.

Sponsored by: House Appropriations Committee

A BILL

for

1 AN ACT relating to tobacco; specifying the sellers who are  
2 retailers of tobacco products for purposes of prohibiting  
3 sales to minors; providing for an injunction of retailers;  
4 specifying tobacco products for taxation purposes; specifying  
5 that tobacco products include electronic cigarettes, vapor  
6 material and additional accessories; increasing the tax rate  
7 on cigarettes; and providing for an effective date.

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9 *Be It Enacted by the Legislature of the State of Wyoming:*

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11 **Section 1.** W.S. 14-3-301(a)(iii), 14-3-302(e),  
12 39-18-101(a) by creating new paragraphs (ix) through (xi) and  
13 39-18-104(a)(i), (ii), (b)(i) and (ii) are amended to read:

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15 **14-3-301. Definitions.**

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1 (a) As used in this article:

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3 (iii) "Retailer" means a business of any kind at  
4 a specific location that sells tobacco products to a user or  
5 consumer and includes a seller who does not have a physical  
6 presence in this state if the seller sells tobacco products  
7 to a user or consumer in this state;

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9 **14-3-302. Prohibited sales or delivery.**

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11 (e) In addition to the penalties under paragraph  
12 (d)(iii) of this section, any person violating subsection (c)  
13 of this section for a third or subsequent time within a two  
14 (2) year period may be subject to an injunction. The  
15 department of revenue or the district attorney of the county  
16 in which the offense occurred, may petition the district court  
17 for an injunction to prohibit the sale of tobacco in the  
18 establishment where the violation occurred or, if the  
19 retailer does not have a physical presence in this state, for  
20 an injunction prohibiting sales of tobacco products from that  
21 retailer into this state. If the court finds that the  
22 respondent in the action has violated the provisions of  
23 subsection (c) of this section for a third or subsequent time

1 within a two (2) year period and may continue to violate such  
2 provisions, it may grant an injunction prohibiting the  
3 respondent from selling tobacco products in the establishment  
4 where the violation occurred or, if the retailer does not  
5 have a physical presence in this state, an injunction  
6 prohibiting sales of tobacco products from that retailer into  
7 this state for a period of not more than one hundred eighty  
8 (180) days. For the purposes of this subsection, multiple  
9 violations occurring before the petition for the injunction  
10 is filed shall be deemed part of the violation for which the  
11 injunction is sought. If the person against whom the  
12 injunction is sought operates multiple, geographically  
13 separate establishments, the injunction shall apply only to  
14 the establishment where the violation occurred. The  
15 injunction shall prohibit all sales of tobacco products in  
16 the establishment where the violation occurred, regardless of  
17 any change in ownership or management of the establishment  
18 that is not a bona fide, arms length transaction while the  
19 injunction is in effect.

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21 **39-18-101. Definitions.**

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23 (a) As used in this article:

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(ix) "Electronic cigarette" means any device that can be used to deliver aerosolized or vaporized nicotine to the person using the device and includes a component, part and accessory of the device and any vapor material intended to be aerosolized or vaporized during the use of the device. "Electronic cigarette" includes, without limitation, any electronic cigar, electronic cigarillo, electronic pipe, electronic hooka, vapor pen or any similar product or device. "Electronic cigarette" does not include a battery or battery charger if sold separately from the device and does not include any product regulated as a drug or device by the United States food and drug administration under subchapter V of the Food, Drug and Cosmetic Act;

(x) "Tobacco product" means any product containing tobacco or nicotine and is intended for human consumption or is likely to be consumed, whether smoked, heated, chewed, absorbed, dissolved, inhaled or ingested including, without limitation, a cigarette, cigar, pipe tobacco, chewing tobacco, snuff or snus. "Tobacco product" includes electronic cigarettes and any component or accessory used in the consumption of a tobacco product including filters, rolling

1 papers, pipes and vapor material. "Tobacco product" does not  
2 include any product regulated as a drug or device by the  
3 United States food and drug administration under subchapter  
4 V of the Food, Drug and Cosmetic Act;

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6 (xi) "Vapor material" means any liquid solution or  
7 other material containing nicotine that is depleted as an  
8 electronic cigarette is used. "Vapor material" includes  
9 liquid solution or other material containing nicotine that is  
10 sold with or inside a disposable or reusable electronic  
11 cigarette.

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13 **39-18-104. Taxation rate.**

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15 (a) There is levied and shall be collected and paid to  
16 the department an excise tax upon the sale of each cigarette  
17 sold by wholesalers as follows:

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19 (i) ~~Six-tenths of a cent (\$.006)~~ One and one-tenth  
20 cents (\$.011); and

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22 (ii) ~~Two and four-tenths cents (\$.024)~~ Four and  
23 four-tenths cents (\$.044).

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2 (b) There is levied and shall be paid to the department  
3 an excise tax upon the use or storage by consumers of  
4 cigarettes in Wyoming but only if the tax imposed by  
5 subsection (a) of this section has not been paid as follows:

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7 (i) ~~Six-tenths of a cent (\$.006)~~ One and one-tenth  
8 cents (\$.011); and

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10 (ii) ~~Two and four-tenths cents (\$.024)~~ Four and  
11 four-tenths cents (\$.044).

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13 **Section 2.** This act is effective July 1, 2019.

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(END)