

**2019 DRAFTING REQUEST****Assembly Amendment (AA-ASA1-AB56)**

For: **John Nygren (608) 266-2343** Drafter: **elunder**  
 By: **Nygren** Secondary Drafters:  
 Date: **6/24/2019** May Contact:

Same as LRB:

Submit via email: **YES**  
 Requester's email: **Rep.Nygren@legis.wisconsin.gov**  
 Carbon copy (CC) to: **erika.lunder@legis.wisconsin.gov**  
**joseph.kreye@legis.wisconsin.gov**

**Pre Topic:**

No specific pre topic given

**Topic:**

Imposing tobacco products tax on vapor products

**Instructions:**

Create new ss. 139.76 (1m) and 139.78 (1m)

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	elunder 6/25/2019	csicilia 6/25/2019			
/P1			dwalker 6/25/2019		

FE Sent For:

<END>



PI  
gjs

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**  
**ASSEMBLY AMENDMENT ,**  
**TO ASSEMBLY SUBSTITUTE AMENDMENT 1,**  
**TO ASSEMBLY BILL 56**

Delete "or both"  
stat comp  
x-verb

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 424, line 11: delete lines 11 to 19 and substitute:

3 **"SECTION 1753b.** 139.75 (1) of the statutes is amended to read:

4 139.75 (1) "Business" means any trade, occupation, activity or enterprise  
5 engaged in for the purpose of selling or distributing tobacco products or vapor  
6 products or both in this state.

History: 1981 c. 20; 1985 a. 302; 1997 a. 27; 1999 a. 9; 2005 a. 25, 49; 2007 a. 20; 2015 a. 216.

7 **SECTION 1753d.** 139.75 (2) of the statutes is amended to read:

8 139.75 (2) "Consumer" means any person who has title to or possession of  
9 tobacco products or vapor products or both in storage for use or other consumption  
10 in this state.

History: 1981 c. 20; 1985 a. 302; 1997 a. 27; 1999 a. 9; 2005 a. 25, 49; 2007 a. 20; 2015 a. 216.

1           **SECTION 1753f.** 139.75 (4) of the statutes is amended to read:

2           139.75 (4) (a) Any person engaged in the business of selling tobacco products  
3           or vapor products or both in this state who brings, or causes to be brought, into this  
4           state from outside the state any tobacco products or vapor products or both for sale;

5           (b) Any person who makes, manufactures or fabricates tobacco products or  
6           vapor products or both in this state for sale in this state; or

7           (c) Any person engaged in the business of selling tobacco products or vapor  
8           products or both outside this state who ships or transports tobacco products to  
9           retailers in this state to be sold by those retailers.

History: 1981 c. 20; 1985 a. 302; 1997 a. 27; 1999 a. 9; 2005 a. 25, 49; 2007 a. 20; 2015 a. 216.

10           **SECTION 1753k.** 139.75 (5) of the statutes is amended to read:

11           139.75 (5) "Manufacturer" means any person who manufactures and sells  
12           tobacco products or vapor products or both.

History: 1981 c. 20; 1985 a. 302; 1997 a. 27; 1999 a. 9; 2005 a. 25, 49; 2007 a. 20; 2015 a. 216.

13           **SECTION 1753n.** 139.75 (6) of the statutes is amended to read:

14           139.75 (6) "Place of business" means any place where tobacco products or vapor  
15           products or both are sold, manufactured, stored or kept for the purpose of sale or  
16           consumption, including any vessel, vehicle, airplane, train or vending machine.

History: 1981 c. 20; 1985 a. 302; 1997 a. 27; 1999 a. 9; 2005 a. 25, 49; 2007 a. 20; 2015 a. 216.

17           **SECTION 1753o.** 139.75 (7) of the statutes is amended to read:

18           139.75 (7) "Retail outlet" means each place of business from which tobacco  
19           products or vapor products or both are sold to consumers.

History: 1981 c. 20; 1985 a. 302; 1997 a. 27; 1999 a. 9; 2005 a. 25, 49; 2007 a. 20; 2015 a. 216.

20           **SECTION 1753q.** 139.75 (8) of the statutes is amended to read:

21           139.75 (8) "Retailer" means any person engaged in the business of selling  
22           tobacco products or vapor products or both to ultimate consumers.

History: 1981 c. 20; 1985 a. 302; 1997 a. 27; 1999 a. 9; 2005 a. 25, 49; 2007 a. 20; 2015 a. 216.

1           **SECTION 1753s.** 139.75 (9) of the statutes is amended to read:

2           139.75 (9) "Sale" means any transfer, exchange or barter for a consideration.  
3           It includes a gift by a person engaged in the business of selling tobacco products or  
4           vapor products for advertising or as a means of evading this subchapter or for any  
5           other purpose, and it includes solicitation of orders for, and the sale for, future  
6           delivery.

History: 1981 c. 20; 1985 a. 302; 1997 a. 27; 1999 a. 9; 2005 a. 25, 49; 2007 a. 20; 2015 a. 216.

7           **SECTION 1753u.** 139.75 (10) of the statutes is amended to read:

8           139.75 (10) "Storage" means any keeping or retention of tobacco products or  
9           vapor products or both for use or consumption in this state.

History: 1981 c. 20; 1985 a. 302; 1997 a. 27; 1999 a. 9; 2005 a. 25, 49; 2007 a. 20; 2015 a. 216.

10          **SECTION 1753v.** 139.75 (11) of the statutes is amended to read:

11          139.75 (11) "Subjobber" means any person, other than a manufacturer or  
12          distributor, who buys tobacco products or vapor products or both from a distributor  
13          and sells them to persons other than the ultimate consumers.

History: 1981 c. 20; 1985 a. 302; 1997 a. 27; 1999 a. 9; 2005 a. 25, 49; 2007 a. 20; 2015 a. 216.

14          **SECTION 1753w.** 139.75 (13) of the statutes is amended to read:

15          139.75 (13) "Use" means the exercise of any right or power incidental to the  
16          ownership of tobacco products or vapor products." ✓

History: 1981 c. 20; 1985 a. 302; 1997 a. 27; 1999 a. 9; 2005 a. 25, 49; 2007 a. 20; 2015 a. 216.

17          **2.** Page 425, line 8: delete the material beginning with "and, for" and ending  
18          with "thereof" on line 11. ✓

19          **3.** Page 425, line 23: delete the material beginning with that line and ending  
20          with page 426, line 8 and substitute: ↗

21          **Section 1755f** 139.76 (1m) of the statutes is created to read:

↑ ? FIX

1           139.76 (1m) An excise tax is imposed upon the sale, offering or exposing for  
2 sale, possession with intent to sell or removal for consumption or sale or other  
3 disposition for any purpose of vapor products by any person engaged as a distributor  
4 of them at the rate of \$0.05 per milliliter of the liquid or other substance based on the  
5 volume as listed by the manufacturer and at a proportionate rate for any other  
6 quantity or fractional part thereof. The tax attaches at the time the vapor products  
7 are received by the distributor in this state. The tax shall be passed on to the ultimate  
8 consumer of the vapor products. All vapor products received in this state for sale or  
9 distribution within this state, except those actually sold as provided in sub. (2), shall  
10 be subject to such tax. *Je*

11 *g* **SECTION 1755m.** 139.76 (2) of the statutes is amended to read:

12           139.76 (2) Tobacco products and vapor products sold to or by post exchanges  
13 of the U.S. armed forces, to or by federally operated veterans hospitals in this state,  
14 and tobacco products and vapor products sold to an interstate carrier of passengers  
15 for hire to be resold to bona fide passengers actually being transported and tobacco  
16 products and vapor products sold for shipment outside this state in interstate  
17 commerce are not subject to the tax.

**History:** 1981 c. 20; 1983 a. 27; 1989 a. 56; 1999 a. 9; 2001 a. 16; 2005 a. 22; 2007 a. 20; 2009 a. 28.

**Cross-reference:** See also ch. Tax 9, Wis. adm. code.

18           **SECTION 1755t.** 139.77 (1) of the statutes is amended to read:

19           139.77 (1) On or before the 15th day of each month, every distributor with a  
20 place of business in this state shall file a return showing the quantity, including  
21 milliliters in the case of a vapor product, and taxable price of each tobacco product  
22 or vapor product brought, or caused to be brought, into this state for sale; or made,  
23 manufactured or fabricated in this state for sale in this state, during the preceding  
24 month. Every distributor outside this state shall file a return showing the quantity,

1 including milliliters in the case of a vapor product, and taxable price of each tobacco  
 2 product or vapor product shipped or transported to retailers in this state to be sold  
 3 by those retailers during the preceding month. At the time that the return is filed,  
 4 the distributor shall pay the tax.” ✓

History: 1981 c. 20; 1985 a. 302; 1987 a. 399; 1991 a. 39; 1997 a. 27; 2017 a. 324.

5 **4.** Page 426, line 14: delete the material beginning with “and, for” and ending  
 6 with “thereof” on line 17. ✓

7 **5.** Page 426, line 20: after that line insert: ✓

8 “**SECTION 1757b.** 139.78 (1m) of the statutes is created to read: ✓

9 139.78 (1m) A tax is imposed upon the use or storage by consumers of vapor  
 10 products in this state at the rate of \$0.05 per milliliter of the liquid or other substance  
 11 based on the volume as listed by the manufacturer and at a proportionate rate for  
 12 any other quantity or fractional part thereof. The tax does not apply if the tax  
 13 imposed by s. 139.76 (1m) on the vapor products has been paid or if the vapor  
 14 products are exempt from the tobacco products tax under s. 139.76 (2). ✓ e vapor

15 **SECTION 1757d.** 139.78 (2) of the statutes is amended to read:

16 139.78 (2) On or before the 15th day of each month, every consumer who during  
 17 the preceding month has acquired title to or possession for use or storage in this state  
 18 of tobacco products or vapor products or both upon which the tax imposed by s. 139.76  
 19 (1) has not been paid shall file a return showing the quantity of tobacco products and  
 20 vapor products acquired. At the time when the return is filed, the consumer shall  
 21 pay the tax.

History: 1981 c. 20; 1985 a. 332; 1987 a. 312 s. 17; 1991 a. 39; 1997 a. 27; 2001 a. 16; 2007 a. 20; 2009 a. 28.

22 **SECTION 1757f.** 139.79 (1) and (3) of the statutes are amended to read:

1           139.79 (1) No person may engage in the business of a distributor or subjobber  
2 of tobacco products or vapor products or both at any place of business unless that  
3 person has filed an application for and obtained a permit from the department to  
4 engage in that business at such place.

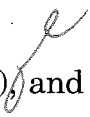
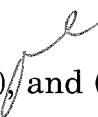
5           (3) Any person holding a cigarette distributor permit under s. 139.34 may  
6 obtain a tobacco products distributor permit under this section at no charge, and any  
7 person holding a cigarette jobber permit under s. 139.34 may obtain a tobacco  
8 products subjobber permit under this section at no charge.

History: 1981 c. 20; 1983 a. 27; 1989 a. 56; 1995 a. 27; 1997 a. 27.

9           **SECTION 1757h.** 139.80 of the statutes is amended to read:

10           **139.80 Refunds, credits.** If tobacco products or vapor products or both upon  
11 which the tax has been reported and paid are shipped or transported by the  
12 distributor to consumers to be consumed outside the state or to retailers or  
13 subjobbers outside the state to be sold by those retailers or subjobbers outside the  
14 state or are returned to the manufacturer by the distributor or destroyed by the  
15 distributor, the tax may be refunded or credited to the distributor, as prescribed by  
16 the department. Any overpayment of the tax imposed under s. 139.78 may be  
17 refunded or credited to the taxpayer, as prescribed by the department.

History: 1981 c. 20.

18           **SECTION 1757m.** 139.801 (1), (3) (a), (b)  and (c)  and (4) of the statutes are  
19 amended to read:

20           139.801 (1) In this section, "bad debt" means an amount that is equal to the  
21 purchase price of tobacco products and vapor products, if such amount may be  
22 claimed as a deduction under section 166 of the Internal Revenue Code. "Bad debt"  
23 does not include financing charges, interest on the wholesale price of tobacco

1 products and vapor products, uncollectible amounts on property that remains in the  
2 seller's possession until the full purchase price is paid, expenses incurred in  
3 attempting to collect any debt, debts sold or assigned to 3rd parties for collection, and  
4 repossessed property.

5 (3) (a) A copy of the original invoice for the sale of tobacco products or vapor  
6 products that represents bad debt.

7 (b) Evidence that the tobacco products or vapor products described in the  
8 invoice under par. (a) were delivered to the person who ordered them.

9 (c) Evidence that the person who ordered and received the tobacco products or  
10 vapor products did not pay the distributor for the tobacco products them.

11 (4) Any person who possesses tobacco products or vapor products or both for  
12 which the taxes imposed under this subchapter have not been paid and have been  
13 claimed as a deduction under this section shall file a report as prescribed by the  
14 department, pay the taxes imposed under this subchapter on the tobacco products  
15 and vapor products, and be subject to this subchapter in the same manner as is  
16 provided for persons who hold valid permits under this subchapter.

History: 2005 a. 25.

17 **SECTION 1757o.** 139.802 of the statutes is amended to read:

18 **139.802 Preferred claims.** If the property of any purchaser of tobacco  
19 products or vapor products from any permittee under this subchapter is seized upon  
20 any intermediate or final process of any court in this state, or if the business of any  
21 purchaser of tobacco products or vapor products from any permittee under this  
22 subchapter is suspended by the action of creditors or put into the hands of any  
23 assignee, receiver, or trustee, all amounts that are due from the purchaser to any  
24 permittee for taxes imposed under this subchapter that the permittee has paid to the



1 state for tobacco products or vapor products purchased from the permittee shall be  
2 considered preferred claims, and shall be paid in full, and the permittee shall be a  
3 preferred creditor.

History: 2005 a. 25.

4 **SECTION 1757q.** 139.803 (intro), (4), and (5) of the statutes are amended to  
5 read:

6 **139.803 Refunds to Indian tribes.** (intro) The department may refund the  
7 taxes collected under s. 139.76 (1) in respect to sales on reservations or trust lands  
8 of an Indian tribe to the tribal council of the tribe having jurisdiction over the  
9 reservation or trust land on which the sale is made only if all of the following  
10 conditions are fulfilled:

11 (4) The tobacco products or vapor products were not delivered by the retailer  
12 to the buyer by means of a common carrier, a contract carrier, or the U.S. postal  
13 service.

14 (5) The retailer has not sold the tobacco products or vapor products to another  
15 retailer or to a subjobber.

History: 1999 a. 9; 2009 a. 28.

16 **SECTION 1757s.** 139.805 of the statutes is amended to read:

17 **139.805 Agreements with Indian tribes.** The department may enter into  
18 agreements with Indian tribes to provide for the refunding of the tobacco products  
19 tax imposed under s. 139.76 (1). If the department enters into an agreement with  
20 an Indian tribe, the agreement may provide for refunding 100 percent of that tax on  
21 tobacco products and vapor products sold on the tribal reservation to enrolled  
22 members of the tribe residing on the tribal reservation and may provide for refunding  
23 50 percent of that tax on tobacco products and vapor products sold on the tribal

1 reservation to persons who are not enrolled members of the tribe residing on the  
2 tribal reservation.

History: 1999 a. 9.

3 **SECTION 1757u.** 139.81 (1) and (3) of the statutes are amended to read:

4 **139.81 Salespersons.** (1) No person may sell or take orders for tobacco  
5 products or vapor products or both for resale in this state for any manufacturer or  
6 permittee unless the person has filed an application for and obtained a valid  
7 certificate under s. 73.03 (50) and a salesperson's permit from the department. No  
8 manufacturer or permittee shall authorize any person to sell or take orders for  
9 tobacco products or vapor products or both in this state unless the person has filed  
10 an application for and obtained a valid certificate under s. 73.03 (50) and a  
11 salesperson's permit. Each application for a permit shall disclose the name and  
12 address of the employer and shall remain effective only while the salesperson  
13 represents the named employer. If the salesperson is thereafter employed by another  
14 manufacturer or permittee the salesperson shall obtain a new salesperson's permit.  
15 Each manufacturer and permittee shall notify the department within 10 days after  
16 the resignation or dismissal of any salesperson holding a permit.

17 (3) Any person holding a cigarette salesperson's permit under s. 139.37 may  
18 obtain a ~~tobacco products~~ salesperson's permit under this section at no charge.

History: 1981 c. 20; 1983 a. 27; 1997 a. 27.

19 **SECTION 1757w.** 139.82 (1), (2), and (8) of the statutes are amended to read:  
20 139.82 (1) Every manufacturer located out of the state shall keep records of all  
21 sales of tobacco products and vapor products shipped into this state. Every  
22 manufacturer located in this state shall keep records of production, sales and  
23 withdrawals of tobacco products and vapor products. Every distributor shall keep

1 records of purchases and sales of tobacco products and vapor products. Every  
2 subjobber shall keep records of all purchases and disposition of tobacco products and  
3 vapor products. Every warehouse operator shall keep records of receipts and  
4 withdrawals of tobacco products and vapor products. All records shall be accurate  
5 and complete and be kept in a manner prescribed by the department. These records  
6 shall be preserved on the premises described in the permit in such a manner as to  
7 ensure permanency and accessibility for inspection at reasonable hours by  
8 authorized personnel of the department.

9 (2) (a) Except as provided in par. (b), every permittee shall render a true and  
10 correct invoice of every sale of tobacco products and vapor products at wholesale and  
11 shall on or before the 15th day of each calendar month file a verified report of all  
12 tobacco products and vapor products purchased, sold, received, warehoused or  
13 withdrawn during the preceding calendar month.

14 (b) The department may allow any subjobber permittee who does not sell  
15 tobacco products or vapor products, except for those on which the tax under this  
16 subchapter is paid, to file a quarterly report. The quarterly report shall be filed on  
17 or before the 15th day of the next month following the close of each calendar quarter.  
18 The report shall specify the value of tobacco products and vapor products purchased  
19 and sold during the preceding calendar quarter.

20 (8) Each distributor shall collect and remit the excise tax imposed by s. 139.76  
21 (1) on tobacco products and vapor products not exempt from the tobacco products tax  
22 under s. 139.76 (2), with the reports required to be filed under this section.” ✓

History: 1981 c. 20; 1987 a. 312; 1991 a. 39; 1997 a. 27; 1999 a. 9; 2011 a. 68; 2015 a. 216; 2017 a. 17.

23 **6.** Page 510, line 9: delete lines 9 and 10 and substitute:

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"(2m) TAX ON VAPOR PRODUCTS. The treatment of ss. 139.75 (1), (2), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13) and (14), 139.76 (1), (1m) and (2), 139.77 (1), 139.78 (1), (1m) and (2), 139.79 (1) and (3), 139.80, 139.801 (1), (3) (a) to (c) and (4), 139.802, 139.803 (intro), (4) and (5), 139.805, 139.81 (1) and (3), and 139.82 (1), (2) and (8) takes effect on October 1, 2019."

(END)

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**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**  
**ASSEMBLY AMENDMENT ,**  
**TO ASSEMBLY SUBSTITUTE AMENDMENT 1,**  
**TO ASSEMBLY BILL 56**

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 424, line 11: delete lines 11 to 19 and substitute:

3 **"SECTION 1753b.** 139.75 (1) of the statutes is amended to read:

4 139.75 (1) "Business" means any trade, occupation, activity or enterprise  
5 engaged in for the purpose of selling or distributing tobacco products or vapor  
6 products in this state.

7 **SECTION 1753d.** 139.75 (2) of the statutes is amended to read:

8 139.75 (2) "Consumer" means any person who has title to or possession of  
9 tobacco products or vapor products in storage for use or other consumption in this  
10 state.

11 **SECTION 1753f.** 139.75 (4) of the statutes is amended to read:

1           139.75 (4) (a) Any person engaged in the business of selling tobacco products  
2 or vapor products in this state who brings, or causes to be brought, into this state  
3 from outside the state any tobacco products or vapor products for sale;

4           (b) Any person who makes, manufactures or fabricates tobacco products or  
5 vapor products in this state for sale in this state; or

6           (c) Any person engaged in the business of selling tobacco products or vapor  
7 products outside this state who ships or transports tobacco products to retailers in  
8 this state to be sold by those retailers.

9           **SECTION 1753k.** 139.75 (5) of the statutes is amended to read:

10           139.75 (5) “Manufacturer” means any person who manufactures and sells  
11 tobacco products or vapor products.

12           **SECTION 1753n.** 139.75 (6) of the statutes is amended to read:

13           139.75 (6) “Place of business” means any place where tobacco products or vapor  
14 products are sold, manufactured, stored or kept for the purpose of sale or  
15 consumption, including any vessel, vehicle, airplane, train or vending machine.

16           **SECTION 1753o.** 139.75 (7) of the statutes is amended to read:

17           139.75 (7) “Retail outlet” means each place of business from which tobacco  
18 products or vapor products are sold to consumers.

19           **SECTION 1753q.** 139.75 (8) of the statutes is amended to read:

20           139.75 (8) “Retailer” means any person engaged in the business of selling  
21 tobacco products or vapor products to ultimate consumers.

22           **SECTION 1753s.** 139.75 (9) of the statutes is amended to read:

23           139.75 (9) “Sale” means any transfer, exchange or barter for a consideration.  
24 It includes a gift by a person engaged in the business of selling tobacco products or  
25 vapor products for advertising or as a means of evading this subchapter or for any

1 other purpose, and it includes solicitation of orders for, and the sale for, future  
2 delivery.

3 **SECTION 1753u.** 139.75 (10) of the statutes is amended to read:

4 139.75 (10) "Storage" means any keeping or retention of tobacco products or  
5 vapor products for use or consumption in this state.

6 **SECTION 1753v.** 139.75 (11) of the statutes is amended to read:

7 139.75 (11) "Subjobber" means any person, other than a manufacturer or  
8 distributor, who buys tobacco products or vapor products from a distributor and sells  
9 them to persons other than the ultimate consumers.

10 **SECTION 1753w.** 139.75 (13) of the statutes is amended to read:

11 139.75 (13) "Use" means the exercise of any right or power incidental to the  
12 ownership of tobacco products or vapor products."

13 **2.** Page 425, line 8: delete the material beginning with "and, for" and ending  
14 with "thereof" on line 11.

15 **3.** Page 425, line 23: delete the material beginning with that line and ending  
16 with page 426, line 8, and substitute:

17 "**SECTION 1755f.** 139.76 (1m) of the statutes is created to read:

18 139.76 (1m) An excise tax is imposed upon the sale, offering or exposing for  
19 sale, possession with intent to sell or removal for consumption or sale or other  
20 disposition for any purpose of vapor products by any person engaged as a distributor  
21 of them at the rate of \$0.05 per milliliter of the liquid or other substance based on the  
22 volume as listed by the manufacturer and at a proportionate rate for any other  
23 quantity or fractional part thereof. The tax attaches at the time the vapor products  
24 are received by the distributor in this state. The tax shall be passed on to the ultimate

1 consumer of the vapor products. All vapor products received in this state for sale or  
2 distribution within this state, except those actually sold as provided in sub. (2), shall  
3 be subject to such tax.

4 **SECTION 1755m.** 139.76 (2) of the statutes is amended to read:

5 139.76 (2) Tobacco products and vapor products sold to or by post exchanges  
6 of the U.S. armed forces, to or by federally operated veterans hospitals in this state,  
7 and tobacco products and vapor products sold to an interstate carrier of passengers  
8 for hire to be resold to bona fide passengers actually being transported and tobacco  
9 products and vapor products sold for shipment outside this state in interstate  
10 commerce are not subject to the tax.

11 **SECTION 1755t.** 139.77 (1) of the statutes is amended to read:

12 139.77 (1) On or before the 15th day of each month, every distributor with a  
13 place of business in this state shall file a return showing the quantity, including  
14 milliliters in the case of a vapor product, and taxable price of each tobacco product  
15 or vapor product brought, or caused to be brought, into this state for sale; or made,  
16 manufactured or fabricated in this state for sale in this state, during the preceding  
17 month. Every distributor outside this state shall file a return showing the quantity,  
18 including milliliters in the case of a vapor product, and taxable price of each tobacco  
19 product or vapor product shipped or transported to retailers in this state to be sold  
20 by those retailers during the preceding month. At the time that the return is filed,  
21 the distributor shall pay the tax.”.

22 **4.** Page 426, line 14: delete the material beginning with “and, for” and ending  
23 with “thereof” on line 17.

24 **5.** Page 426, line 20: after that line insert:



1           **“SECTION 1757b.** 139.78 (1m) of the statutes is created to read:

2           139.78 (1m) A tax is imposed upon the use or storage by consumers of vapor  
3 products in this state at the rate of \$0.05 per milliliter of the liquid or other substance  
4 based on the volume as listed by the manufacturer and at a proportionate rate for  
5 any other quantity or fractional part thereof. The tax does not apply if the tax  
6 imposed by s. 139.76 (1m) on the vapor products has been paid or if the vapor  
7 products are exempt from the vapor products tax under s. 139.76 (2).

8           **SECTION 1757d.** 139.78 (2) of the statutes is amended to read:

9           139.78 (2) On or before the 15th day of each month, every consumer who during  
10 the preceding month has acquired title to or possession for use or storage in this state  
11 of tobacco products or vapor products upon which the tax imposed by s. 139.76 (1) has  
12 not been paid shall file a return showing the quantity of tobacco products and vapor  
13 products acquired. At the time when the return is filed, the consumer shall pay the  
14 tax.

15           **SECTION 1757f.** 139.79 (1) and (3) of the statutes are amended to read:

16           139.79 (1) No person may engage in the business of a distributor or subjobber  
17 of tobacco products or vapor products at any place of business unless that person has  
18 filed an application for and obtained a permit from the department to engage in that  
19 business at such place.

20           (3) Any person holding a cigarette distributor permit under s. 139.34 may  
21 obtain a ~~tobacco products~~ distributor permit under this section at no charge, and any  
22 person holding a cigarette jobber permit under s. 139.34 may obtain a ~~tobacco~~  
23 ~~products~~ subjobber permit under this section at no charge.

24           **SECTION 1757h.** 139.80 of the statutes is amended to read:

1           **139.80 Refunds, credits.** If tobacco products or vapor products upon which  
2 the tax has been reported and paid are shipped or transported by the distributor to  
3 consumers to be consumed outside the state or to retailers or subjobbers outside the  
4 state to be sold by those retailers or subjobbers outside the state or are returned to  
5 the manufacturer by the distributor or destroyed by the distributor, the tax may be  
6 refunded or credited to the distributor, as prescribed by the department. Any  
7 overpayment of the tax imposed under s. 139.78 may be refunded or credited to the  
8 taxpayer, as prescribed by the department.

9           **SECTION 1757m.** 139.801 (1), (3) (a), (b) and (c) and (4) of the statutes are  
10 amended to read:

11           **139.801 (1)** In this section, “bad debt” means an amount that is equal to the  
12 purchase price of tobacco products and vapor products, if such amount may be  
13 claimed as a deduction under section 166 of the Internal Revenue Code. “Bad debt”  
14 does not include financing charges, interest on the wholesale price of tobacco  
15 products and vapor products, uncollectible amounts on property that remains in the  
16 seller’s possession until the full purchase price is paid, expenses incurred in  
17 attempting to collect any debt, debts sold or assigned to 3rd parties for collection, and  
18 repossessed property.

19           **(3) (a)** A copy of the original invoice for the sale of tobacco products or vapor  
20 products that represents bad debt.

21           **(b)** Evidence that the tobacco products or vapor products described in the  
22 invoice under par. (a) were delivered to the person who ordered them.

23           **(c)** Evidence that the person who ordered and received the tobacco products or  
24 vapor products did not pay the distributor for the tobacco products them.

1           (4) Any person who possesses tobacco products or vapor products for which the  
2 taxes imposed under this subchapter have not been paid and have been claimed as  
3 a deduction under this section shall file a report as prescribed by the department, pay  
4 the taxes imposed under this subchapter on the tobacco products and vapor products,  
5 and be subject to this subchapter in the same manner as is provided for persons who  
6 hold valid permits under this subchapter.

7           **SECTION 1757o.** 139.802 of the statutes is amended to read:

8           **139.802 Preferred claims.** If the property of any purchaser of tobacco  
9 products or vapor products from any permittee under this subchapter is seized upon  
10 any intermediate or final process of any court in this state, or if the business of any  
11 purchaser of tobacco products or vapor products from any permittee under this  
12 subchapter is suspended by the action of creditors or put into the hands of any  
13 assignee, receiver, or trustee, all amounts that are due from the purchaser to any  
14 permittee for taxes imposed under this subchapter that the permittee has paid to the  
15 state for tobacco products or vapor products purchased from the permittee shall be  
16 considered preferred claims, and shall be paid in full, and the permittee shall be a  
17 preferred creditor.

18           **SECTION 1757q.** 139.803 (intro.), (4) and (5) of the statutes are amended to  
19 read:

20           **139.803 Refunds to Indian tribes.** (intro.) The department may refund the  
21 taxes collected under s. 139.76 (1) in respect to sales on reservations or trust lands  
22 of an Indian tribe to the tribal council of the tribe having jurisdiction over the  
23 reservation or trust land on which the sale is made only if all of the following  
24 conditions are fulfilled:

1           (4) The tobacco products or vapor products were not delivered by the retailer  
2 to the buyer by means of a common carrier, a contract carrier, or the U.S. postal  
3 service.

4           (5) The retailer has not sold the tobacco products or vapor products to another  
5 retailer or to a subjobber.

6           **SECTION 1757s.** 139.805 of the statutes is amended to read:

7           **139.805 Agreements with Indian tribes.** The department may enter into  
8 agreements with Indian tribes to provide for the refunding of the tobacco products  
9 tax imposed under s. 139.76 (1). If the department enters into an agreement with  
10 an Indian tribe, the agreement may provide for refunding 100 percent of that tax on  
11 tobacco products and vapor products sold on the tribal reservation to enrolled  
12 members of the tribe residing on the tribal reservation and may provide for refunding  
13 50 percent of that tax on tobacco products and vapor products sold on the tribal  
14 reservation to persons who are not enrolled members of the tribe residing on the  
15 tribal reservation.

16           **SECTION 1757u.** 139.81 (1) and (3) of the statutes are amended to read:

17           139.81 (1) No person may sell or take orders for tobacco products or vapor  
18 products for resale in this state for any manufacturer or permittee unless the person  
19 has filed an application for and obtained a valid certificate under s. 73.03 (50) and  
20 a salesperson's permit from the department. No manufacturer or permittee shall  
21 authorize any person to sell or take orders for tobacco products or vapor products in  
22 this state unless the person has filed an application for and obtained a valid  
23 certificate under s. 73.03 (50) and a salesperson's permit. Each application for a  
24 permit shall disclose the name and address of the employer and shall remain  
25 effective only while the salesperson represents the named employer. If the

1 salesperson is thereafter employed by another manufacturer or permittee the  
2 salesperson shall obtain a new salesperson's permit. Each manufacturer and  
3 permittee shall notify the department within 10 days after the resignation or  
4 dismissal of any salesperson holding a permit.

5 (3) Any person holding a cigarette salesperson's permit under s. 139.37 may  
6 obtain a tobacco products salesperson's permit under this section at no charge.

7 **SECTION 1757w.** 139.82 (1), (2) and (8) of the statutes are amended to read:

8 139.82 (1) Every manufacturer located out of the state shall keep records of all  
9 sales of tobacco products and vapor products shipped into this state. Every  
10 manufacturer located in this state shall keep records of production, sales and  
11 withdrawals of tobacco products and vapor products. Every distributor shall keep  
12 records of purchases and sales of tobacco products and vapor products. Every  
13 subjobber shall keep records of all purchases and disposition of tobacco products and  
14 vapor products. Every warehouse operator shall keep records of receipts and  
15 withdrawals of tobacco products and vapor products. All records shall be accurate  
16 and complete and be kept in a manner prescribed by the department. These records  
17 shall be preserved on the premises described in the permit in such a manner as to  
18 ensure permanency and accessibility for inspection at reasonable hours by  
19 authorized personnel of the department.

20 (2) (a) Except as provided in par. (b), every permittee shall render a true and  
21 correct invoice of every sale of tobacco products and vapor products at wholesale and  
22 shall on or before the 15th day of each calendar month file a verified report of all  
23 tobacco products and vapor products purchased, sold, received, warehoused or  
24 withdrawn during the preceding calendar month.

1 (b) The department may allow any subjobber permittee who does not sell  
2 tobacco products or vapor products, except for those on which the tax under this  
3 subchapter is paid, to file a quarterly report. The quarterly report shall be filed on  
4 or before the 15th day of the next month following the close of each calendar quarter.  
5 The report shall specify the value of tobacco products and vapor products purchased  
6 and sold during the preceding calendar quarter.

7 (8) Each distributor shall collect and remit the excise tax imposed by s. 139.76  
8 ~~(1)~~ on tobacco products and vapor products not exempt from the tobacco products tax  
9 under s. 139.76 (2), with the reports required to be filed under this section.”.

10 **6.** Page 510, line 9: delete lines 9 and 10 and substitute:

11 “(2m) TAX ON VAPOR PRODUCTS. The treatment of ss. 139.75 (1), (2), (4), (5), (6),  
12 (7), (8), (9), (10), (11), (13), and (14), 139.76 (1), (1m), and (2), 139.77 (1), 139.78 (1),  
13 (1m), and (2), 139.79 (1) and (3), 139.80, 139.801 (1), (3) (a), (b), and (c), and (4),  
14 139.802, 139.803 (intro.), (4), and (5), 139.805, 139.81 (1) and (3), and 139.82 (1), (2),  
15 and (8) takes effect on October 1, 2019.”.

16 (END)