



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-6177/1
KP:klm

2021 SENATE BILL 1038

March 9, 2022 - Introduced by Senators ROYS, AGARD and CARPENTER, cosponsored by Representatives VINING, POPE, BILLINGS, BALDEH, BOWEN, CABRERA, CONLEY, CONSIDINE, HEBL, MILROY, SINICKI, SHELTON, STUBBS, SUBECK, VRUWINK and SPREITZER. Referred to Committee on Insurance, Licensing and Forestry.

1 **AN ACT** *to repeal* 134.65 (8) and 139.75 (14); *to renumber and amend* 134.65
2 (1); *to amend* 134.65 (title), 134.65 (1m), 134.65 (1r), 134.65 (4), 134.65 (5m),
3 134.65 (6), 134.66 (1) (g), 139.75 (1), 139.75 (2), 139.75 (4) (a), 139.75 (4) (b),
4 139.75 (4) (c), 139.75 (5), 139.75 (6), 139.75 (7), 139.75 (8), 139.75 (9), 139.75
5 (10), 139.75 (11), 139.75 (13), 139.76, 139.77 (1), 139.78 (1), 139.78 (1m), 139.78
6 (2), 139.79 (1), 139.80, 139.801 (1), 139.801 (3) (a), 139.801 (3) (b), 139.801 (3)
7 (c), 139.801 (4), 139.802, 139.803 (4), 139.803 (5), 139.805, 139.81 (1), 139.82 (1),
8 139.82 (2) and 139.82 (8); and *to create* 20.566 (1) (am), 134.65 (1a), 134.65
9 (2m), 134.65 (9) and 139.75 (4b) of the statutes; **relating to:** licenses for the
10 retail sale of electronic smoking devices and making an appropriation.

Analysis by the Legislative Reference Bureau

This bill requires a person who sells electronic smoking devices to obtain a cigarette and tobacco products retailer license. The bill defines an “electronic smoking device” as any device that can be used to deliver an aerosolized or vaporized liquid or other substance for inhalation, regardless of whether the liquid or other substance contains nicotine, including parts, accessories, liquids, substances, e-cigarettes, e-cigars, e-pipes, vape pens, and e-hookahs.

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Specifically, the bill requires a retailer who sells or offers for sale electronic smoking devices to obtain an annual license from the clerk of the city, village, or town where the retailer is located. Under the bill, municipalities that issue retail licenses to sell cigarettes, tobacco products, and electronic smoking devices must submit a list annually to the Department of Revenue with a list of those licenses and certain information relating to the licenses and licensees, which DOR must post on its Internet site.

The bill also authorizes cities, villages, and towns to enact an ordinance regulating cigarette, tobacco product, and electronic smoking device retailers if the ordinance is at least as stringent as the requirements under state law. Additionally, the bill authorizes two positions in the Department of Health Services to conduct investigations of retail sales of cigarettes, electronic smoking devices, and tobacco products, and two positions in DOR for administering and enforcing the taxes imposed on the sale of electronic smoking devices.

The bill also provides additional funding for 1) local investigations of retail sales of cigarettes and tobacco products, 2) special education aid the Department of Public Instruction pays to school districts, independent charter schools, cooperative educational service agencies, and county children with disabilities education boards; 3) the University of Wisconsin System under its general program operations appropriation; and 4) state aid to technical colleges.

For further information see the state and local fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert
2 the following amounts for the purposes indicated:

		2021-22		2022-23
20.566 Revenue, department of				
(1) COLLECTION OF TAXES				
(am) Administration of electronic				
smoking devices tax and enforce-				
ment	GPR	C	206,640	243,250

8 **SECTION 2.** 20.566 (1) (am) of the statutes is created to read:

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1 20.566 (1) (am) *Administration of electronic smoking devices tax and*
2 *enforcement.* As a continuing appropriation, the amounts in the schedule for the
3 purpose of administering and enforcing the taxes imposed for the sale of electronic
4 smoking devices.

5 **SECTION 3.** 134.65 (title) of the statutes is amended to read:

6 **134.65** (title) **Cigarette, electronic smoking devices, and tobacco**
7 **products retailer license.**

8 **SECTION 4.** 134.65 (1) of the statutes is renumbered 134.65 (1d) and amended
9 to read:

10 134.65 (1d) No person shall in any manner, or upon any pretense, or by any
11 device, directly or indirectly sell, expose for sale, possess with intent to sell,
12 exchange, barter, dispose of or give away any cigarettes, electronic smoking devices,
13 or tobacco products to any person not holding a license as herein provided or a permit
14 under ss. 139.30 to 139.41 or 139.79 without first obtaining a license from the clerk
15 of the city, village or town wherein such privilege is sought to be exercised.

16 **SECTION 5.** 134.65 (1a) of the statutes is created to read:

17 134.65 (1a) In this section:

18 (a) "Cigarette" has the meaning given in s. 139.30 (1m).

19 (b) "Electronic smoking device" has the meaning given in s. 139.75 (4b).

20 (c) "Tobacco products" has the meaning given in s. 139.75 (12).

21 (d) "Vending machine" has the meaning given in s. 139.30 (14).

22 **SECTION 6.** 134.65 (1m) of the statutes is amended to read:

23 134.65 (1m) A city, village, or town clerk may not issue a license under sub. (1)
24 (1d) unless the applicant specifies in the license application whether the applicant

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1 will sell, exchange, barter, dispose of, or give away the cigarette, electronic smoking
2 devices, or tobacco products over the counter or in a vending machine, or both.

3 **SECTION 7.** 134.65 (1r) of the statutes is amended to read:

4 134.65 (1r) A city, village, or town clerk may not require an applicant's
5 signature on an application for a cigarette, electronic smoking devices, and tobacco
6 products retailer license to be notarized. If a city, village, town, or any department
7 of this state prepares an application form for a cigarette, electronic smoking devices,
8 and tobacco products retailer license, the form may not require an applicant's
9 signature on the form to be notarized.

10 **SECTION 8.** 134.65 (2m) of the statutes is created to read:

11 134.65 (2m) Annually, no later than July 15, the clerk of a city, village, or town
12 issuing licensed under sub. (1d) shall submit to the department of revenue, in a
13 manner prescribed by the department, a list of licenses issued by the city, village, or
14 town under sub. (1d) during the previous fiscal year. The list shall include the name,
15 address, seller's permit number, and trade name of the licensee and the type of
16 license held. The department of revenue shall publish the list annually on the
17 department's Internet site.

18 **SECTION 9.** 134.65 (4) of the statutes is amended to read:

19 134.65 (4) Every licensed retailer shall keep complete and accurate records of
20 all purchases and receipts of cigarettes, electronic smoking devices, and tobacco
21 products. Such records shall be preserved on the licensed premises for 2 years in such
22 a manner as to insure permanency and accessibility for inspection and shall be
23 subject to inspection at all reasonable hours by authorized state and local law
24 enforcement officials.

25 **SECTION 10.** 134.65 (5m) of the statutes is amended to read:

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1 134.65 (5m) Any person who knowingly provides materially false information
2 in an application for a cigarette, electronic smoking devices, and tobacco products
3 retailer license under this section may be required to forfeit not more than \$1,000.

4 **SECTION 11.** 134.65 (6) of the statutes is amended to read:

5 134.65 (6) Any 1st class city may revoke, suspend, or refuse to renew any
6 license issued under this section, as provided in sub. (7) or a 1st class city may enact
7 an ordinance establishing procedures for revoking, suspending, or refusing to renew
8 any license issued under this section.

9 **SECTION 12.** 134.65 (8) of the statutes is repealed.

10 **SECTION 13.** 134.65 (9) of the statutes is created to read:

11 134.65 (9) A city, village, or town may enact and enforce an ordinance
12 regulating persons holding a cigarette, electronic smoking devices, and tobacco
13 products retailer license under this section if the ordinance is at least as stringent
14 as this section.

15 **SECTION 14.** 134.66 (1) (g) of the statutes is amended to read:

16 134.66 (1) (g) "Retailer" means any person licensed under s. 134.65 (~~1~~) (1d).

17 **SECTION 15.** 139.75 (1) of the statutes is amended to read:

18 139.75 (1) "Business" means any trade, occupation, activity or enterprise
19 engaged in for the purpose of selling or distributing tobacco products or ~~vapor~~
20 ~~products~~ electronic smoking devices in this state.

21 **SECTION 16.** 139.75 (2) of the statutes is amended to read:

22 139.75 (2) "Consumer" means any person who has title to or possession of
23 tobacco products or ~~vapor products~~ electronic smoking devices in storage for use or
24 other consumption in this state.

25 **SECTION 17.** 139.75 (4) (a) of the statutes is amended to read:

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

5 **SECTION 18.** 139.75 (4) (b) of the statutes is amended to read:

6 139.75 (4) (b) Any person who makes, manufactures or fabricates tobacco
7 products or ~~vapor products~~ electronic smoking devices in this state for sale in this
8 state; or

9 **SECTION 19.** 139.75 (4) (c) of the statutes is amended to read:

10 139.75 (4) (c) Any person engaged in the business of selling tobacco products
11 or ~~vapor products~~ electronic smoking devices outside this state who ships or
12 transports tobacco products or electronic smoking devices to retailers in this state to
13 be sold by those retailers.

14 **SECTION 20.** 139.75 (4b) of the statutes is created to read:

15 139.75 (4b) “Electronic smoking device” means a device that may be used to
16 deliver any aerosolized or vaporized liquid or other substance for inhalation,
17 regardless of whether the liquid or other substance contains nicotine, including an
18 e-cigarette, e-cigar, e-pipe, vape pen, or e-hookah. “Electronic smoking device”
19 includes a component, part, or accessory of the device, and includes a liquid or other
20 substance that may be aerosolized or vaporized by such device, regardless of whether
21 the liquid or other substance contains nicotine. “Electronic smoking device” does not
22 include a battery or battery charger when sold separately. “Electronic smoking
23 device” does not include drugs, devices, or combination products authorized for sale
24 by the U.S. food and drug administration, as those terms are defined in the Federal
25 Food, Drug, and Cosmetic Act.

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1 **SECTION 21.** 139.75 (5) of the statutes is amended to read:

2 139.75 (5) “Manufacturer” means any person who manufactures and sells
3 tobacco products or ~~vapor products~~ electronic smoking devices.

4 **SECTION 22.** 139.75 (6) of the statutes is amended to read:

5 139.75 (6) “Place of business” means any place where tobacco products or ~~vapor~~
6 ~~products~~ electronic smoking devices are sold, manufactured, stored, or kept for the
7 purpose of sale or consumption, including any vessel, vehicle, airplane, train, or
8 vending machine.

9 **SECTION 23.** 139.75 (7) of the statutes is amended to read:

10 139.75 (7) “Retail outlet” means each place of business from which tobacco
11 products or ~~vapor products~~ electronic smoking devices are sold to consumers.

12 **SECTION 24.** 139.75 (8) of the statutes is amended to read:

13 139.75 (8) “Retailer” means any person engaged in the business of selling
14 tobacco products or ~~vapor products~~ electronic smoking devices to ultimate
15 consumers.

16 **SECTION 25.** 139.75 (9) of the statutes is amended to read:

17 139.75 (9) “Sale” means any transfer, exchange, or barter for a consideration.
18 It includes a gift by a person engaged in the business of selling tobacco products or
19 ~~vapor products~~ electronic smoking devices for advertising or as a means of evading
20 this subchapter or for any other purpose, and it includes solicitation of orders for, and
21 the sale for, future delivery.

22 **SECTION 26.** 139.75 (10) of the statutes is amended to read:

23 139.75 (10) “Storage” means any keeping or retention of tobacco products or
24 ~~vapor products~~ electronic smoking devices for use or consumption in this state.

25 **SECTION 27.** 139.75 (11) of the statutes is amended to read:

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1 139.75 (11) “Subjobber” means any person, other than a manufacturer or
2 distributor, who buys tobacco products or ~~vapor products~~ electronic smoking devices
3 from a distributor and sells them to persons other than the ultimate consumers.

4 **SECTION 28.** 139.75 (13) of the statutes is amended to read:

5 139.75 (13) “Use” means the exercise of any right or power incidental to the
6 ownership of tobacco products or ~~vapor products~~ electronic smoking devices.

7 **SECTION 29.** 139.75 (14) of the statutes is repealed.

8 **SECTION 30.** 139.76 of the statutes is amended to read:

9 **139.76 Imposition; exceptions. (1)** An excise tax is imposed upon the sale,
10 offering or exposing for sale, possession with intent to sell or removal for
11 consumption or sale or other disposition for any purpose of tobacco products by any
12 person engaged as a distributor of them at the rate, for tobacco products, not
13 including moist snuff and ~~vapor products~~ electronic smoking devices, of 71 percent
14 of the manufacturer’s established list price to distributors without diminution by
15 volume or other discounts on domestic products and, for moist snuff, at the rate of
16 100 percent of the manufacturer’s established list price to distributors without
17 diminution by volume or other discounts on domestic products. The tax imposed
18 under this subsection on cigars shall not exceed an amount equal to 50 cents for each
19 cigar. On products imported from another country, not including moist snuff and
20 ~~vapor products~~ electronic smoking devices, the rate of tax is 71 percent of the amount
21 obtained by adding the manufacturer’s list price to the federal tax, duties and
22 transportation costs to the United States. On moist snuff imported from another
23 country, the rate of the tax is 100 percent of the amount obtained by adding the
24 manufacturer’s list price to the federal tax, duties, and transportation costs to the
25 United States. The tax attaches at the time the tobacco products are received by the

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1 distributor in this state. The tax shall be passed on to the ultimate consumer of the
2 tobacco products. All tobacco products received in this state for sale or distribution
3 within this state, except tobacco products actually sold as provided in sub. (2), shall
4 be subject to such tax.

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

16 (2) Tobacco products and ~~vapor products~~ electronic smoking devices sold to or
17 by post exchanges of the U.S. armed forces, to or by federally operated veterans
18 hospitals in this state, and tobacco products and ~~vapor products~~ electronic smoking
19 devices sold to an interstate carrier of passengers for hire to be resold to bona fide
20 passengers actually being transported and tobacco products and ~~vapor products~~
21 electronic smoking devices sold for shipment outside this state in interstate
22 commerce are not subject to the tax.

23 **SECTION 31.** 139.77 (1) of the statutes is amended to read:

24 139.77 (1) On or before the 15th day of each month, every distributor with a
25 place of business in this state shall file a return showing the quantity, including

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1 milliliters in the case of ~~a vapor product~~ an electronic smoking device, and taxable
2 price of each tobacco product or ~~vapor product~~ electronic smoking device brought, or
3 caused to be brought, into this state for sale; or made, manufactured or fabricated
4 in this state for sale in this state, during the preceding month. Every distributor
5 outside this state shall file a return showing the quantity, including milliliters in the
6 case of ~~a vapor product~~ an electronic smoking device, and taxable price of each
7 tobacco product or ~~vapor product~~ electronic smoking device shipped or transported
8 to retailers in this state to be sold by those retailers during the preceding month. At
9 the time that the return is filed, the distributor shall pay the tax.

10 **SECTION 32.** 139.78 (1) of the statutes is amended to read:

11 139.78 (1) A tax is imposed upon the use or storage by consumers of tobacco
12 products in this state at the rate, for tobacco products, not including moist snuff and
13 ~~vapor products~~ electronic smoking devices, of 71 percent of the cost of the tobacco
14 products and, for moist snuff, at the rate of 100 percent of the manufacturer's
15 established list price to distributors without diminution by volume or other discounts
16 on domestic products. The tax imposed under this subsection on cigars shall not
17 exceed an amount equal to 50 cents for each cigar. The tax does not apply if the tax
18 imposed by s. 139.76 (1) on the tobacco products has been paid or if the tobacco
19 products are exempt from the tobacco products tax under s. 139.76 (2).

20 **SECTION 33.** 139.78 (1m) of the statutes is amended to read:

21 139.78 (1m) A tax is imposed upon the use or storage by consumers of ~~vapor~~
22 ~~products~~ electronic smoking devices in this state at the rate of 5 cents per milliliter
23 of the liquid or other substance based on the volume as listed by the manufacturer
24 and at a proportionate rate for any other quantity or fractional part thereof. The tax
25 does not apply if the tax imposed by s. 139.76 (1m) on the ~~vapor products~~ electronic

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1 smoking devices has been paid or if the ~~vapor products~~ electronic smoking devices
2 are exempt from the ~~vapor products~~ electronic smoking devices tax under s. 139.76
3 (2).

4 **SECTION 34.** 139.78 (2) of the statutes is amended to read:

5 139.78 (2) On or before the 15th day of each month, every consumer who during
6 the preceding month has acquired title to or possession for use or storage in this state
7 of tobacco products or ~~vapor products~~ electronic smoking devices upon which the tax
8 imposed by s. 139.76 has not been paid shall file a return showing the quantity of
9 tobacco products and ~~vapor products~~ electronic smoking devices acquired. At the
10 time when the return is filed, the consumer shall pay the tax.

11 **SECTION 35.** 139.79 (1) of the statutes is amended to read:

12 139.79 (1) No person may engage in the business of a distributor or subjobber
13 of tobacco products or ~~vapor products~~ electronic smoking devices at any place of
14 business unless that person has filed an application for and obtained a permit from
15 the department to engage in that business at such place.

16 **SECTION 36.** 139.80 of the statutes is amended to read:

17 **139.80 Refunds, credits.** If tobacco products or ~~vapor products~~ electronic
18 smoking devices upon which the tax has been reported and paid are shipped or
19 transported by the distributor to consumers to be consumed outside the state or to
20 retailers or subjobbers outside the state to be sold by those retailers or subjobbers
21 outside the state or are returned to the manufacturer by the distributor or destroyed
22 by the distributor, the tax may be refunded or credited to the distributor, as
23 prescribed by the department. Any overpayment of the tax imposed under s. 139.78
24 may be refunded or credited to the taxpayer, as prescribed by the department.

25 **SECTION 37.** 139.801 (1) of the statutes is amended to read:

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

9 **SECTION 38.** 139.801 (3) (a) of the statutes is amended to read:

10 139.801 (3) (a) A copy of the original invoice for the sale of tobacco products or
11 ~~vapor products~~ electronic smoking devices that represents bad debt.

12 **SECTION 39.** 139.801 (3) (b) of the statutes is amended to read:

13 139.801 (3) (b) Evidence that the tobacco products or ~~vapor products~~ electronic
14 smoking devices described in the invoice under par. (a) were delivered to the person
15 who ordered them.

16 **SECTION 40.** 139.801 (3) (c) of the statutes is amended to read:

17 139.801 (3) (c) Evidence that the person who ordered and received the tobacco
18 products or ~~vapor products~~ electronic smoking devices did not pay the distributor for
19 them.

20 **SECTION 41.** 139.801 (4) of the statutes is amended to read:

21 139.801 (4) Any person who possesses tobacco products or ~~vapor products~~
22 electronic smoking devices for which the taxes imposed under this subchapter have
23 not been paid and have been claimed as a deduction under this section shall file a
24 report as prescribed by the department, pay the taxes imposed under this subchapter
25 on tobacco products and ~~vapor products~~ electronic smoking devices, and be subject

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1 to this subchapter in the same manner as is provided for persons who hold valid
2 permits under this subchapter.

3 **SECTION 42.** 139.802 of the statutes is amended to read:

4 **139.802 Preferred claims.** If the property of any purchaser of tobacco
5 products or ~~vapor products~~ electronic smoking devices from any permittee under this
6 subchapter is seized upon any intermediate or final process of any court in this state,
7 or if the business of any purchaser of tobacco products or ~~vapor products~~ electronic
8 smoking devices from any permittee under this subchapter is suspended by the
9 action of creditors or put into the hands of any assignee, receiver, or trustee, all
10 amounts that are due from the purchaser to any permittee for taxes imposed under
11 this subchapter that the permittee has paid to the state for tobacco products or ~~vapor~~
12 ~~products~~ electronic smoking devices purchased from the permittee shall be
13 considered preferred claims, and shall be paid in full, and the permittee shall be a
14 preferred creditor.

15 **SECTION 43.** 139.803 (4) of the statutes is amended to read:

16 139.803 (4) The tobacco products or ~~vapor products~~ electronic smoking devices
17 were not delivered by the retailer to the buyer by means of a common carrier, a
18 contract carrier, or the U.S. postal service.

19 **SECTION 44.** 139.803 (5) of the statutes is amended to read:

20 139.803 (5) The retailer has not sold the tobacco products or ~~vapor products~~
21 electronic smoking devices to another retailer or to a subjobber.

22 **SECTION 45.** 139.805 of the statutes is amended to read:

23 **139.805 Agreements with Indian tribes.** The department may enter into
24 agreements with Indian tribes to provide for the refunding of the tax imposed under
25 s. 139.76. If the department enters into an agreement with an Indian tribe, the

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1 agreement may provide for refunding 100 percent of that tax on tobacco products and
2 ~~vapor products~~ electronic smoking devices sold on the tribal reservation to enrolled
3 members of the tribe residing on the tribal reservation and may provide for refunding
4 50 percent of that tax on tobacco products and ~~vapor products~~ electronic smoking
5 devices sold on the tribal reservation to persons who are not enrolled members of the
6 tribe residing on the tribal reservation.

7 **SECTION 46.** 139.81 (1) of the statutes is amended to read:

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

21 **SECTION 47.** 139.82 (1) of the statutes is amended to read:

22 139.82 (1) Every manufacturer located out of the state shall keep records of all
23 sales of tobacco products and ~~vapor products~~ electronic smoking devices shipped into
24 this state. Every manufacturer located in this state shall keep records of production,
25 sales and withdrawals of tobacco products and ~~vapor products~~ electronic smoking

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

10 **SECTION 48.** 139.82 (2) of the statutes is amended to read:

11 139.82 (2) (a) Except as provided in par. (b), every permittee shall render a true
12 and correct invoice of every sale of tobacco products and ~~vapor products~~ electronic
13 smoking devices at wholesale and shall on or before the 15th day of each calendar
14 month file a verified report of all tobacco products and ~~vapor products~~ electronic
15 smoking devices purchased, sold, received, warehoused or withdrawn during the
16 preceding calendar month.

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

24 **SECTION 49.** 139.82 (8) of the statutes is amended to read:

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1 139.82 (8) Each distributor shall collect and remit the excise tax imposed by
2 s. 139.76 on tobacco products and ~~vapor products~~ electronic smoking devices not
3 exempt from tax under s. 139.76 (2), with the reports required to be filed under this
4 section.

SECTION 50. Nonstatutory provisions.

5 (1) ELECTRONIC SMOKING DEVICES ENFORCEMENT. The authorized FTE positions
6 for the department of revenue are increased by 2.0 GPR positions on January 1, 2022,
7 to be funded from the appropriation under s. 20.566 (1) (am), for the purpose of
8 administering and enforcing the taxes imposed on the sale of electronic smoking
9 devices.
10

SECTION 51. Fiscal changes.

11 (1) INVESTIGATORS; RETAIL SALES. In the schedule under s. 20.005 (3) for the
12 appropriation to the department of health services under s. 20.435 (1) (a), the dollar
13 amount for fiscal year 2022-23 is increased by \$164,800 to increase the authorized
14 FTE positions for the department by 2.0 GPR positions to conduct investigations of
15 retail sales of cigarettes, electronic smoking devices, and tobacco products. In the
16 schedule under s. 20.005 (3) for the appropriation to the department of health
17 services under s. 20.435 (1) (a), the dollar amount for fiscal year 2022-23 is increased
18 by \$40,000 to provide supplies and services for the positions authorized under this
19 subsection.
20

21 (2) LOCAL INVESTIGATIONS OF RETAIL SALES. In the schedule under s. 20.005 (3)
22 for the appropriation to the department of health services under s. 20.435 (1) (a), the
23 dollar amount for fiscal year 2022-23 is increased by \$357,500 to support local
24 investigations of places where cigarettes, nicotine products, or tobacco products are
25 sold under s. 254.916.

