

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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SENATE BILL 777  
PROPOSED COMMITTEE SUBSTITUTE S777-PCS55361-RB-8

Short Title: Affiliate Liability for OTP Excise Tax.

(Public)

Sponsors:

Referred to:

March 25, 2009

1 A BILL TO BE ENTITLED  
2 AN ACT TO ALLOW AFFILIATES OF A TOBACCO PRODUCTS MANUFACTURER TO  
3 BE TREATED THE SAME AS THE MANUFACTURER FOR PURPOSES OF  
4 PAYMENT OF THE EXCISE TAX ON OTHER TOBACCO PRODUCTS.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 105-113.4 reads as rewritten:

7 "§ 105-113.4. Definitions.

8 The following definitions apply in this Article:

- 9 (1) Cigar. – A roll of tobacco wrapped in a substance that contains tobacco,  
10 other than a cigarette.
- 11 (1a) Cigarette. – Any of the following:
- 12 a. A roll of tobacco wrapped in paper or in a substance that does not  
13 contain tobacco.
- 14 b. A roll of tobacco wrapped in a substance that contains tobacco and  
15 that, because of its appearance, the type of tobacco used in the filler,  
16 or its packaging and labeling, is likely to be offered to or purchased  
17 by a consumer as a cigarette described in subpart a. of this  
18 subdivision.
- 19 (2) Cost price. – The price a person liable for the tax on tobacco products  
20 imposed by Part 3 of this Article paid for the products, before any discount,  
21 rebate, or allowance or the tax imposed by that Part.
- 22 (3) Distributor. – Either of the following:
- 23 a. A person, wherever resident or located, who purchases non-tax-paid  
24 cigarettes directly from the manufacturer of the cigarettes and stores,  
25 sells, or otherwise disposes of the cigarettes.
- 26 b. ~~A person who manufactures or produces cigarettes or causes them to~~  
27 ~~be manufactured or produced.~~ manufacturer of cigarettes.
- 28 (4) Repealed by Session Laws 1991, c. 689, s. 267.
- 29 (4a) Integrated wholesale dealer. – A wholesale dealer who is an affiliate of a  
30 manufacturer of tobacco products, other than cigarettes, ~~is the only person to~~  
31 ~~whom the manufacturer sells its products,~~ and is not a retail dealer. An  
32 "affiliate" is a person who directly or indirectly controls, is controlled by, or  
33 is under common control with another person.
- 34 (5) Licensed distributor. – A distributor licensed under Part 2 of this Article.



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- 1 (6) Manufacturer. – A person who manufactures ~~or produces~~ tobacco  
2 ~~products.~~ products or contracts with another person to manufacture tobacco  
3 products.
- 4 (7) Package. – The individual packet, can, box, or other container used to  
5 contain and to convey tobacco products to the consumer.
- 6 (8) Person. – Defined in G.S. 105-228.90.
- 7 (9) Retail dealer. – A person who sells a tobacco product to the ultimate  
8 consumer of the product.
- 9 (10) Sale. – A transfer, a trade, an exchange, or a barter, in any manner or by any  
10 means, with or without consideration.
- 11 (10a) Secretary. – The Secretary of Revenue.
- 12 (11) Repealed by Session Laws 1993, c. 442, s. 1, effective January 1, 1994.
- 13 (11a) Tobacco product. – A cigarette, a cigar, or any other product that contains  
14 tobacco and is intended for inhalation or oral use.
- 15 (12) Repealed by Session Laws 1993, c. 442, s. 1, effective January 1, 1994.
- 16 (13) Use. – The exercise of any right or power over cigarettes, incident to the  
17 ownership or possession thereof, other than the making of a sale thereof in  
18 the course of engaging in a business of selling cigarettes. The term includes  
19 the keeping or retention of cigarettes for use.
- 20 (14) Wholesale dealer. – A Either of the following:  
21 a. A person who ~~makes tobacco products other than cigarettes or who~~  
22 acquires tobacco products other than cigarettes for sale to another  
23 wholesale dealer or to a retail dealer.  
24 b. A manufacturer of tobacco products other than cigarettes."
- 25 **SECTION 2.** This act becomes effective July 1, 2009.