



2021-2022 General Assembly

# SENATE BILL 105: 2021 Appropriations Act, Sec. 42.9: Modify Excise Tax on Cigars and Clarify Delivery Sales and Remote Sales of Tobacco Products

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<b>Committee:</b>		<b>Date:</b>	January 26, 2022
<b>Introduced by:</b>		<b>Prepared by:</b>	Trina Griffin
<b>Analysis of:</b>	Sec. 42.9 of S.L. 2021-180		Staff Attorney

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**OVERVIEW:** Section 42.9 of S.L. 2021-180 imposes the current rate of excise tax, which is 12.8% of the cost price per cigar, on remote sales of cigars, and creates a cap of 30¢ per cigar for all cigar purchases, regardless of whether purchased in-person or online. This section also modifies existing excise tax statutes to distinguish between delivery sales and remote sales of tobacco products.

*This section becomes effective July 1, 2022, and applies to sales occurring on or after that date.*

**CURRENT LAW:** Under current law, cigars are subject to an excise tax at the rate of 12.8% of the cost price of the product, but because the tax is paid by the first person in the State to handle the product, a remote seller is not required to collect the tax. All tobacco products, whether sold in-person or online, are already subject to sales tax.

**BILL ANALYSIS:** Section 42.9 of S.L. 2021-180 (2021 Appropriations Act) imposes the current rate of excise tax on remote sales of cigars and creates a cap of 30¢ per cigar for all cigar purchases, regardless of whether purchased in person or online. Effectively, this cap phases out the tax on amounts paid by a dealer in excess of \$2.35 per cigar. At this price point, the primary impact of the cap will be on premium, or hand-rolled, cigars, which are typically more expensive than machine-made cigars, which are unlikely to hit the cap.

This section also modifies existing excise tax statutes to address and distinguish between delivery sales and remote sales of tobacco products. "Delivery sales" are sales of tobacco products subject to the federal PACT Act, which are cigarettes, smokeless tobacco, and vapor products, where the purchase is not made in-person. "Remote sales" are also sales not made in-person but are of tobacco products that are not subject to the PACT Act, like cigars and pipe tobacco. The PACT Act requires age verification, special labeling, detailed reporting, licensing and tax compliance, and registration with ATF and prohibits delivery through U.S. Mail.

**EFFECTIVE DATE:** This section becomes effective July 1, 2022, and applies to sales occurring on or after that date.

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