

**First Regular Session  
Seventy-fourth General Assembly  
STATE OF COLORADO**

**REREVISED**

*This Version Includes All Amendments  
Adopted in the Second House*

LLS NO. 23-0123.02 Pierce Lively x2059

**HOUSE BILL 23-1015**

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**HOUSE SPONSORSHIP**

**Bird, Duran, Lindstedt, Snyder**

**SENATE SPONSORSHIP**

**Liston and Hansen, Ginal, Kolker, Rodriguez**

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**House Committees**

Finance  
Appropriations

**Senate Committees**

Finance

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**A BILL FOR AN ACT**

101 **CONCERNING THE TAXATION OF TOBACCO PRODUCTS.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)*

**Legislative Oversight Committee Concerning Tax Policy.** The bill categorizes the remote sales of certain kinds of tobacco products for purposes of establishing the regulation and taxation of the sales. The bill exempts transactions involving tobacco products other than smokeless tobacco products or roll-your-own tobacco products from the definition of "delivery sale" and instead defines the term "remote retail sale" to include these transactions. The bill then establishes a system for the taxation and licensing of these "remote retail sales" that substantively

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
Capital letters or bold & italic numbers indicate new material to be added to existing law.  
Dashes through the words or numbers indicate deletions from existing law.

SENATE  
3rd Reading Unamended  
April 3, 2023

SENATE  
Amended 2nd Reading  
March 31, 2023

HOUSE  
3rd Reading Unamended  
March 6, 2023

HOUSE  
Amended 2nd Reading  
March 3, 2023

mirrors the current system of taxation and licensing for "delivery sales".  
The bill also resolves an ambiguity about how the "manufacturer's list price" of a tobacco product is determined for both "delivery sales" and "remote retail sales".

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 39-28.5-101  
3 as follows:

4 **39-28.5-101. Definitions.** As used in this article 28.5, unless the  
5 context otherwise requires:

6 (1) "CONSUMER" MEANS ANY PERSON WHO HAS TITLE TO OR  
7 POSSESSION OF TOBACCO PRODUCTS FOR THE PERSON'S OWN USE OR  
8 CONSUMPTION IN THIS STATE AND NOT FOR RESALE.

9 ~~(1)~~ (2) (a) "Delivery sale" means, EXCEPT AS PROVIDED IN  
10 SUBSECTION (2)(b) OF THIS SECTION, the sale of tobacco products to a  
11 consumer in this state when:

12 ~~(a)~~ (I) The consumer submits an order for the tobacco products to  
13 a delivery seller for sale by means other than an over-the-counter sale on  
14 the delivery seller's premises, including, but not limited to, telephone or  
15 other voice transmission, the mail or other delivery service, or the internet  
16 or other online service; and

17 ~~(b)~~ (II) The tobacco products are delivered when the seller is not  
18 in the physical presence of the consumer when the consumer obtains  
19 possession of the tobacco products by use of a common carrier, private  
20 delivery service, mail, or any other means.

21 (b) "DELIVERY SALE" DOES NOT INCLUDE THE SALE OF CIGARS OR  
22 PIPE TOBACCO.

23 ~~(1.2)~~ (3) "Delivery seller" means a person located outside of this

1 state who makes delivery sales.

2 ~~(1.4)~~ (4) "Department" means the department of revenue.

3 ~~(1.5)~~ (5) "Distributing subcontractor" means every person, firm,  
4 limited liability company, partnership, or corporation who purchases  
5 tobacco products from a distributor for resale to a retailer in this state.

6 ~~(2)~~ (6) "Distributor" means every person who:

7 (a) First receives tobacco products in this state;

8 (b) Sells tobacco products in this state and is primarily liable for  
9 the tobacco products tax on such products;

10 (c) First sells or offers for sale in this state tobacco products  
11 imported into this state from any other state or country; or

12 (d) Is a delivery seller.

13 ~~(3)~~ (7) (a) "Manufacturer's list price" means, EXCEPT AS PROVIDED  
14 IN SUBSECTIONS (7)(b) AND (7)(c) OF THIS SECTION, the invoice price for  
15 which a manufacturer or supplier sells a tobacco product to a distributor  
16 OR REMOTE RETAIL SELLER exclusive of any discount or other reduction.  
17 IN THE CASE OF CIGARS AND PIPE TOBACCO, "MANUFACTURER'S LIST  
18 PRICE" IS ALSO KNOWN AS THE ACQUISITION COST AND IS ALSO EXCLUSIVE  
19 OF ANY DISCOUNT OR OTHER REDUCTION.

20 (b) FOR A DELIVERY OR REMOTE RETAIL SELLER, IF DETERMINING  
21 THE INVOICE PRICE DESCRIBED IN SUBSECTION (7)(a) OF THIS SECTION IS  
22 IMPRACTICABLE, THEN "MANUFACTURER'S LIST PRICE" MEANS THE  
23 AVERAGE OF THE ACTUAL PRICE PAID, EXCLUSIVE OF ANY REBATES OR  
24 DISCOUNTS APPLIED, FOR THE TOBACCO PRODUCT'S STOCK KEEPING UNIT  
25 DURING THE PRECEDING CALENDAR YEAR. THE DEPARTMENT MAY, BY  
26 WRITTEN NOTICE TO THE DELIVERY OR REMOTE RETAIL SELLER,  
27 PROSPECTIVELY REQUIRE A DELIVERY OR REMOTE RETAIL SELLER TO

1 CALCULATE THE TAX ON THE INVOICE PRICE IF THE DEPARTMENT FINDS  
2 THAT THE DELIVERY OR REMOTE RETAIL SELLER'S USE OF THE AVERAGE  
3 PRICE PAID WAS FOR THE PURPOSE OF AVOIDING TAX.

4 (c) FOR A MANUFACTURER WHO IS ALSO A DELIVERY SELLER, A  
5 REMOTE RETAIL SELLER, OR A RETAILER, AND WHO SELLS TOBACCO  
6 PRODUCTS EXCLUSIVELY TO CONSUMERS AND NOT TO SUPPLIERS OR  
7 DISTRIBUTORS, "MANUFACTURER'S LIST PRICE" MEANS THE  
8 MANUFACTURER'S COST TO MANUFACTURE THE TOBACCO PRODUCT,  
9 WHICH INCLUDES THE MANUFACTURING OVERHEAD AND THE COST OF ALL  
10 DIRECT MATERIALS AND DIRECT LABOR USED.

11 ~~(3.3)~~ (8) "Modified risk tobacco product" means any tobacco  
12 product for which the secretary of the United States department of health  
13 and human services has issued an order authorizing the product to be  
14 commercially marketed as a modified risk tobacco product in accordance  
15 with 21 U.S.C. sec. 387k, or any successor section.

16 ~~(3.7)~~ (9) "Moist snuff" means any finely cut, ground, or powdered  
17 tobacco that is not intended to be smoked but does not include any finely  
18 cut, ground, or powdered tobacco that is intended to be placed in the nasal  
19 cavity.

20 (10) (a) "REMOTE RETAIL SALE" MEANS THE SALE OF CIGARS OR  
21 PIPE TOBACCO TO A CONSUMER IN THIS STATE WHEN:

22 (I) THE CONSUMER SUBMITS AN ORDER FOR THE CIGARS OR PIPE  
23 TOBACCO TO A REMOTE RETAIL SELLER FOR SALE BY MEANS OTHER THAN  
24 AN OVER-THE-COUNTER SALE ON THE REMOTE RETAIL SELLER'S PREMISES,  
25 INCLUDING, BUT NOT LIMITED TO, TELEPHONE OR OTHER VOICE  
26 TRANSMISSION, THE MAIL OR OTHER DELIVERY SERVICE, OR THE INTERNET  
27 OR OTHER ONLINE SERVICE; AND

1 (II) THE CIGARS OR PIPE TOBACCO ARE DELIVERED TO THE  
2 CONSUMER BY USE OF A COMMON CARRIER, PRIVATE DELIVERY SERVICE,  
3 MAIL, OR ANY OTHER MEANS OF REMOTE DELIVERY, OR WHEN THE REMOTE  
4 RETAIL SELLER IS NOT IN THE PHYSICAL PRESENCE OF THE CONSUMER  
5 WHEN THE CONSUMER OBTAINS POSSESSION OF THE CIGARS OR PIPE  
6 TOBACCO.

7 (b) "REMOTE RETAIL SALE" DOES NOT INCLUDE THE SALE OF  
8 TOBACCO PRODUCTS OTHER THAN CIGARS OR PIPE TOBACCO.

9 (11) "REMOTE RETAIL SELLER" MEANS A PERSON LOCATED  
10 OUTSIDE OF THIS STATE WHO MAKES REMOTE RETAIL SALES.

11 ~~(4)~~ (12) "Sale" means any transfer, exchange, or barter, in any  
12 manner or by any means whatsoever, for a consideration, including all  
13 sales made by any person. The term includes:

14 (a) A gift by a person engaged in the business of selling tobacco  
15 products, for advertising, as a means of evading the provisions of this  
16 ~~article~~ ARTICLE 28.5 or for any other purposes whatsoever; ~~and~~

17 (b) A delivery sale; AND

18 (c) A REMOTE RETAIL SALE.

19 (13) "STOCK KEEPING UNIT" MEANS THE UNIQUE IDENTIFIER  
20 ASSIGNED BY THE DISTRIBUTOR OR REMOTE RETAIL SELLER TO VARIOUS  
21 ITEMS IN ORDER TO TRACK INVENTORY.

22 ~~(5)~~ (14) "Tobacco products" means cigars, cheroots, stogies,  
23 periques, granulated, plug cut, crimp cut, ready rubbed, and other  
24 smoking tobacco, snuff, snuff flour, cavendish, plug and twist tobacco,  
25 fine-cut and other chewing tobaccos, shorts, refuse scraps, clippings,  
26 cuttings and sweepings of tobacco and other kinds and forms of tobacco,  
27 prepared in such manner as to be suitable for chewing or for smoking in

1 a pipe or otherwise, or both for chewing and smoking, but does not  
2 include cigarettes ~~which~~ THAT are taxed separately pursuant to article 28  
3 of this ~~title~~ TITLE 39.

4 **SECTION 2.** In Colorado Revised Statutes, 39-28.5-102, **amend**  
5 (4) as follows:

6 **39-28.5-102. Tax levied.** (4) (a) The tax set forth in this section  
7 is collected by the department. ~~and is imposed at the time the distributor:~~

8 (b) ~~IN THE CASE OF A DISTRIBUTOR, THE TAX SET FORTH IN THIS~~  
9 ~~SECTION IS IMPOSED AT THE TIME THE DISTRIBUTOR:~~

10 (a) (I) Brings, or causes to be brought, into this state from without  
11 the state tobacco products for sale;

12 (b) (II) Makes, manufactures, or fabricates tobacco products in  
13 this state for sale in this state;

14 (c) (III) Ships or transports tobacco products to retailers in this  
15 state to be sold by those retailers; or

16 (d) (IV) Makes a delivery sale.

17 (b) ~~IN THE CASE OF A REMOTE RETAIL SELLER, THE TAX SET FORTH~~  
18 ~~IN THIS SECTION IS IMPOSED AT THE TIME THE REMOTE RETAIL SELLER~~  
19 ~~MAKES A REMOTE RETAIL SALE.~~

20 **SECTION 3.** In Colorado Revised Statutes, **amend**  
21 39-28.5-102.5 as follows:

22 **39-28.5-102.5. Tax levied - state constitution.** Pursuant to  
23 section 21 of article X of the state constitution, there is levied, in addition  
24 to the tax levied pursuant to section 39-28.5-102, a tax on the sale, use,  
25 consumption, handling, or distribution of tobacco products by distributors  
26 AND REMOTE RETAIL SELLERS, at a rate of twenty percent of the  
27 manufacturer's list price. The tax shall be paid to and collected by the

1 department. The tax shall be imposed in the same manner as the tax  
2 described in section 39-28.5-102.

3 **SECTION 4.** In Colorado Revised Statutes, 39-28.5-104, **amend**  
4 (1) as follows:

5 **39-28.5-104. Licensing required - rules - fines.** (1) It is  
6 unlawful for any person to engage in the business of a distributor of  
7 tobacco products at any place of business OR TO MAKE DELIVERY OR  
8 REMOTE RETAIL SALES without first obtaining a license granted and issued  
9 by the department, which license shall be in effect until June 30 following  
10 the date of issue, unless sooner revoked. IN THE CASE OF A DISTRIBUTOR  
11 LOCATED IN THIS STATE, such license shall be granted only to a person  
12 who owns or operates the place from which the person engages in the  
13 business of a distributor of tobacco products, and, if such business is  
14 operated in two or more separate places IN THIS STATE by any such  
15 person, a separate license for each place of business shall be required.  
16 Such license shall be renewed only upon timely application and payment  
17 of the required fee prior to expiration. Such licenses may be transferred  
18 in the discretion of and pursuant to the rules adopted by the department.  
19 The fee for a license shall be ten dollars per year, and such fee shall be  
20 credited to the general fund. Such fee shall be reduced at the rate of two  
21 dollars and fifty cents for each expired quarter of the license year. The  
22 department shall, on reasonable notice and after a hearing, suspend or  
23 revoke the license of any person violating any provision of this ~~article~~  
24 ARTICLE 28.5, and no license shall be issued to such person within a  
25 period of two years thereafter. The department may share information on  
26 the names and addresses of persons who purchased tobacco products for  
27 resale with the department of public health and environment and county

1 and district public health agencies. The department shall refuse to issue  
2 a new or renewal distributor OR REMOTE RETAIL SELLER license, and shall  
3 revoke a distributor's OR REMOTE RETAIL SELLER'S license, if the  
4 distributor OR REMOTE RETAIL SELLER owes the state any delinquent taxes  
5 administered by the department or interest thereon pursuant to this title  
6 TITLE 39 that have been determined by law to be due and unpaid, unless  
7 the distributor OR REMOTE RETAIL SELLER has entered into an agreement  
8 approved by the department to pay the amount due. The department shall  
9 only issue a new or renewal distributor OR REMOTE RETAIL SELLER license  
10 to a distributor OR REMOTE RETAIL SELLER that has a current license issued  
11 pursuant to section 39-26-103.

12 **SECTION 5.** In Colorado Revised Statutes, 39-28.5-105, **add** (5)  
13 as follows:

14 **39-28.5-105. Books and records to be preserved.** (5) EVERY  
15 REMOTE RETAIL SELLER SHALL KEEP COMPLETE AND ACCURATE RECORDS  
16 NECESSARY FOR THE DETERMINATION OF THE CORRECT TAX LIABILITY,  
17 INCLUDING ITEMIZED INVOICES TO VALIDATE THE ACTUAL COSTS PAID BY  
18 THE REMOTE RETAIL SELLER FOR ALL CIGARS AND PIPE TOBACCO OFFERED  
19 IN REMOTE RETAIL SALES TO THE CONSUMER WITHIN THIS STATE.

20 **SECTION 6.** In Colorado Revised Statutes, 39-28.5-106, **amend**  
21 (1), (2), and (4)(a) as follows:

22 **39-28.5-106. Returns and remittance of tax - civil penalty.**  
23 (1) Every distributor AND REMOTE RETAIL SELLER shall file a return with  
24 the department each quarter. The return, which shall be upon forms  
25 prescribed and furnished by the department, shall contain, among other  
26 things, the total amount of tobacco products purchased by the distributor  
27 OR REMOTE RETAIL SELLER during the preceding quarter and the tax due



1 thereon.

2 (2) Every distributor AND REMOTE RETAIL SELLER shall file a  
3 return with the department by the twentieth day of the month following  
4 the month reported and shall therewith remit the amount of tax due, less  
5 three and one-third percent of any sum so remitted that consists of tax  
6 collected after July 1, 2005, but before January 1, 2021, and less one and  
7 six-tenths percent of any sum so remitted that consists of tax collected on  
8 or after January 1, 2021, to cover the distributor's OR REMOTE RETAIL  
9 SELLER'S expense in the collection and remittance of said tax; except that  
10 no part of the tax imposed pursuant to section 39-28.5-102.5 and section  
11 21 of article X of the state constitution shall be subject to the discount  
12 provided for in this subsection (2). If any distributor OR REMOTE RETAIL  
13 SELLER is delinquent in remitting said tax, other than in unusual  
14 circumstances shown to the satisfaction of the executive director of the  
15 department, the distributor OR REMOTE RETAIL SELLER shall not be  
16 allowed to retain any amounts to cover his or her expense in collecting  
17 and remitting said tax, and in addition the penalty imposed under section  
18 39-28.5-110 (2)(b) shall apply.

19 (4) (a) Any person, firm, limited liability company, partnership,  
20 or corporation, other than a distributor OR REMOTE RETAIL SELLER, in  
21 possession of tobacco products for which taxes have not otherwise been  
22 remitted pursuant to this section shall be liable and responsible for the  
23 uncollected tax that is levied pursuant to section 39-28.5-102 and section  
24 21 of article X of the state constitution on behalf of the distributor OR  
25 REMOTE RETAIL SELLER who failed to pay the tax. The person or entity  
26 shall make the payment to the department within thirty days of first taking  
27 possession of the tobacco product. The department shall establish a form

1 to be used for remittance of the payment. The department shall remit the  
2 proceeds it receives pursuant to this ~~paragraph (a)~~ SUBSECTION (4)(a) to  
3 the state treasurer for distribution as follows:

4 **SECTION 7.** In Colorado Revised Statutes, 39-28.5-107, **amend**  
5 (2)(a), (2)(b)(I), (2)(b)(III), (2)(c), (2)(d) as follows:

6 **39-28.5-107. When credit may be obtained for tax paid.**

7 (2) (a) Credit shall be given by the department to a distributor OR  
8 REMOTE RETAIL SELLER for all taxes levied pursuant to this ~~article~~  
9 ARTICLE 28.5 and section 21 of article X of the state constitution and paid  
10 pursuant to the provisions of this ~~article~~ ARTICLE 28.5 that are bad debts.  
11 Such credit shall offset taxes levied pursuant to this ~~article~~ ARTICLE 28.5  
12 and section 21 of article X of the state constitution and paid pursuant to  
13 the provisions of this ~~article~~ ARTICLE 28.5 only. No credit shall be given  
14 unless the bad debt has been charged off as uncollectible on the books of  
15 the distributor OR REMOTE RETAIL SELLER. Subsequent to receiving the  
16 credit, if the distributor OR REMOTE RETAIL SELLER receives a payment for  
17 the bad debt, the distributor OR REMOTE RETAIL SELLER shall be liable to  
18 the department for the amount received and shall remit this amount in the  
19 next payment to the department under section 39-28.5-106.

20 (b) Any claim for a bad debt credit under this subsection (2) shall  
21 be supported by all of the following:

22 (I) A copy of the original invoice issued by the distributor OR  
23 REMOTE RETAIL SELLER;

24 (III) Evidence that the person who ordered and received the  
25 tobacco products did not pay the distributor OR REMOTE RETAIL SELLER  
26 for them and that the distributor OR REMOTE RETAIL SELLER used  
27 reasonable collection practices in attempting to collect the debt.

1 (c) If credit is given to a distributor OR REMOTE RETAIL SELLER for  
2 a bad debt, the person who ordered and received the tobacco products but  
3 did not pay the distributor OR REMOTE RETAIL SELLER for them shall be  
4 liable in an amount equal to the credit for the tax imposed in this ~~article~~  
5 ARTICLE 28.5 on the tobacco products. Subsequent to receiving the credit,  
6 if the distributor OR REMOTE RETAIL SELLER receives a payment for the  
7 bad debt and the distributor OR REMOTE RETAIL SELLER makes a payment  
8 to the department, the amount of taxes owed by such person shall be  
9 reduced by the amount paid to the department.

10 (d) As used in this subsection (2), "bad debt" means the taxes  
11 attributable to any portion of a debt that is related to a sale of tobacco  
12 products subject to tax under this ~~article~~ ARTICLE 28.5, that is not  
13 otherwise deductible or excludable, that has become worthless or  
14 uncollectible in the time after the tax has been paid pursuant to section  
15 39-28.5-106, and that is eligible to be claimed as a deduction pursuant to  
16 section 166 of the federal "Internal Revenue Code of 1986", as amended.  
17 A bad debt shall not include any interest on the wholesale price of  
18 tobacco products, uncollectible amounts on property that remain in the  
19 possession of the distributor OR REMOTE RETAIL SELLER until the full  
20 purchase price is paid, expenses incurred in attempting to collect any  
21 account receivable or any portion of the debt recovered, an account  
22 receivable that has been sold to a third party for collection, or repossessed  
23 property.

24 **SECTION 8.** In Colorado Revised Statutes, 39-28.5-110, **amend**  
25 (1) as follows:

26 **39-28.5-110. Prohibited acts - penalties.** (1) It is unlawful for  
27 any ~~distributor~~ PERSON to sell and distribute any tobacco products in this

1 state without a license as required in section 39-28.5-104, or to willfully  
2 make any false or fraudulent return or false statement on any return, or to  
3 willfully evade the payment of the tax, or any part thereof, as imposed by  
4 this ~~article~~ ARTICLE 28.5. Any distributor, REMOTE RETAIL SELLER, or  
5 agent thereof who willfully violates any provision of this ~~article~~ ARTICLE  
6 28.5 shall be punished as provided by section 39-21-118.

7 **SECTION 9.** In Colorado Revised Statutes, **amend** 39-28.5-112  
8 as follows:

9 **39-28.5-112. List of licensed distributors and remote retail**  
10 **sellers - published on website.** ~~On or before December 31, 2009,~~ The  
11 department shall publish on its website a list of the names and addresses  
12 of all licensed distributors AND REMOTE RETAIL SELLERS. The list shall be  
13 updated within seven days of any changes to the list.

14 **SECTION 10.** In Colorado Revised Statutes, 39-28.6-102,  
15 **amend** (5) and (7)(b) as follows:

16 **39-28.6-102. Definitions.** As used in this article 28.6, unless the  
17 context otherwise requires:

18 (5) (a) "Manufacturer's list price" means, EXCEPT AS PROVIDED IN  
19 SUBSECTIONS (5)(b) AND (5)(c) OF THIS SECTION, the invoice price for  
20 which a manufacturer or supplier sells a nicotine product to a distributor  
21 exclusive of any discount or other reduction.

22 (b) FOR A DELIVERY SELLER, IF DETERMINING THE INVOICE PRICE  
23 DESCRIBED IN SUBSECTION (5)(a) OF THIS SECTION IS IMPRACTICABLE,  
24 THEN "MANUFACTURER'S LIST PRICE" MEANS THE AVERAGE OF THE  
25 ACTUAL PRICE PAID, EXCLUSIVE OF ANY REBATES OR DISCOUNTS APPLIED,  
26 FOR THE NICOTINE PRODUCT'S STOCK KEEPING UNIT DURING THE  
27 PRECEDING CALENDAR YEAR. THE DEPARTMENT MAY, BY WRITTEN NOTICE

1 TO THE DELIVERY SELLER, PROSPECTIVELY REQUIRE A DELIVERY SELLER  
2 TO CALCULATE THE TAX ON THE INVOICE PRICE IF THE DEPARTMENT FINDS  
3 THAT THE DELIVERY SELLER'S USE OF THE AVERAGE PRICE PAID WAS FOR  
4 THE PURPOSE OF AVOIDING TAX.

5 (c) FOR A MANUFACTURER WHO IS ALSO A DELIVERY SELLER OR A  
6 RETAILER, AND WHO SELLS NICOTINE PRODUCTS EXCLUSIVELY TO  
7 CONSUMERS AND NOT TO SUPPLIERS OR DISTRIBUTORS, "MANUFACTURER'S  
8 LIST PRICE" MEANS THE MANUFACTURER'S COST TO MANUFACTURE THE  
9 NICOTINE PRODUCT, WHICH INCLUDES THE MANUFACTURING OVERHEAD  
10 AND THE COST OF ALL DIRECT MATERIALS AND DIRECT LABOR USED.

11 (7) "Nicotine product" means a product that contains nicotine  
12 derived from tobacco or created synthetically that is intended for human  
13 consumption, whether by vaporizing, chewing, smoking, absorbing,  
14 dissolving, inhaling, snorting, sniffing, aerosolizing, or by any other  
15 means, and that is not:

16 (b) Tobacco products, as defined in section ~~39-28.5-101 (5)~~  
17 39-28.5-101 (14); or

18 **SECTION 11.** In Colorado Revised Statutes, 18-8-204, **amend**  
19 (2)(m) as follows:

20 **18-8-204. Introducing contraband in the second degree -**  
21 **definition.** (2) As used in this section, "contraband" means any of the  
22 following, but does not include any article or thing referred to in section  
23 18-8-203:

24 (m) For purposes of a facility of the department of corrections or  
25 any private contract prison, any cigarettes or tobacco products, as defined  
26 in section ~~39-28.5-101 (5)~~ 39-28.5-101 (14);

27 **SECTION 12. Act subject to petition - effective date.** This act

1 takes effect January 1, 2024; except that, if a referendum petition is filed  
2 pursuant to section 1 (3) of article V of the state constitution against this  
3 act or an item, section, or part of this act within the ninety-day period  
4 after final adjournment of the general assembly, then the act, item,  
5 section, or part will not take effect unless approved by the people at the  
6 general election to be held in November 2024 and, in such case, will take  
7 effect on the date of the official declaration of the vote thereon by the  
8 governor.