

**§4401. Definitions**

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1985, c. 783, §16 (NEW).]

**1. Business.** "Business" means any trade, occupation, activity or enterprise engaged in for the purpose of selling or distributing tobacco products in this State.

[PL 1985, c. 783, §16 (NEW).]

**1-A. Delivery sale.** "Delivery sale" means a sale of tobacco products to a consumer in this State when:

A. The purchaser submits the order for the sale by means of telephonic or other electronic method of voice transmission, the Internet or a delivery service; or [PL 2011, c. 285, §11 (NEW).]

B. The tobacco products are delivered by use of a delivery service. [PL 2011, c. 285, §11 (NEW).]

[PL 2011, c. 285, §11 (NEW).]

**2. Distributor.** "Distributor" means a person engaged in the business of producing or manufacturing tobacco products in this State for sale in this State, a person engaged in the business of selling tobacco products in this State who brings, or causes to be brought, into this State any tobacco products for sale to a retailer, a person engaged in the business of selling tobacco products who ships or transports tobacco products to retailers for sale in this State, a retailer who imports, receives or acquires, from a person other than a licensed distributor, tobacco products for sale within the State or a person who makes delivery sales.

[PL 2011, c. 285, §12 (AMD).]

**2-A. Electronic smoking device.** "Electronic smoking device" means a device used to deliver nicotine or any other substance intended for human consumption that may be used by a person to simulate smoking through inhalation of vapor or aerosol from the device, including, without limitation, a device manufactured, distributed, marketed or sold as an electronic cigarette, electronic cigar, electronic pipe, electronic hookah or so-called vape pen.

[PL 2019, c. 530, Pt. A, §1 (NEW); PL 2019, c. 530, Pt. A, §7 (AFF).]

**2-B. Hookah.** "Hookah" means a device used for smoking tobacco that consists of a tube connected to a container where the smoke is cooled by passing through water.

[PL 2019, c. 530, Pt. A, §1 (NEW); PL 2019, c. 530, Pt. A, §7 (AFF).]

**3. Manufacturer.** "Manufacturer" means a person who manufactures and sells tobacco products.

[PL 1985, c. 783, §16 (NEW).]

**4. Place of business.** "Place of business" means any place where tobacco products are sold or where tobacco products are manufactured, stored, or kept for the purpose of sale or consumption, including any vessel, vehicle, airplane, train or vending machines.

[PL 1985, c. 783, §16 (NEW).]

**5. Retailer.** "Retailer" means any person engaged in the business of selling tobacco products to ultimate consumers.

[PL 1985, c. 783, §16 (NEW).]

**6. Retail outlet.** "Retail outlet" means a place of business from which tobacco products are sold to consumers. Vending machines shall be considered a retail outlet.

[PL 1985, c. 783, §16 (NEW).]

**7. Sale.** "Sale" means any transfer, exchange, barter or gift in any manner or by any means whatsoever, for a consideration. "Sale" includes a gift for advertising by a person engaged in the business of selling tobacco products.

[PL 2005, c. 627, §2 (AMD).]

**7-A. Smoking.** "Smoking" includes carrying or having in one's possession a lighted or heated cigarette, cigar or pipe or a lighted or heated tobacco or plant product intended for human consumption through inhalation whether natural or synthetic in any manner or in any form. "Smoking" includes the use of an electronic smoking device.

[PL 2019, c. 530, Pt. A, §1 (NEW); PL 2019, c. 530, Pt. A, §7 (AFF).]

**8. Subjobber.**

[PL 2005, c. 627, §3 (RP).]

**9. Tobacco products.** "Tobacco products" means cigars; cheroots; stogies; electronic smoking devices and liquids used in electronic smoking devices whether or not they contain nicotine; periques, granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco; snuff; snuff flour; snus; cavendish; plug and twist tobacco; finecut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco, prepared in such manner as to be intended for human consumption or is likely to be consumed, whether smoked, heated, chewed, absorbed, dissolved, inhaled or ingested by any other means. "Tobacco products" does not include:

A. Products that are subject to the tax provided by chapter 703; [PL 2019, c. 530, Pt. A, §2 (NEW); PL 2019, c. 530, Pt. A, §7 (AFF).]

B. Drugs, devices or combination products authorized for sale by the United States Department of Health and Human Services, Food and Drug Administration, as those terms are defined in the Federal Food, Drug, and Cosmetic Act; [PL 2019, c. 530, Pt. A, §2 (NEW); PL 2019, c. 530, Pt. A, §7 (AFF).]

C. Any product that contains adult use cannabis subject to tax under chapter 723; or [PL 2019, c. 607, Pt. B, §7 (AMD); PL 2021, c. 669, §5 (REV).]

D. Any product that contains cannabis or cannabis products subject to control under Title 22, chapter 558-C. [PL 2019, c. 530, Pt. A, §2 (NEW); PL 2019, c. 530, Pt. A, §7 (AFF); PL 2021, c. 669, §5 (REV).]

[PL 2019, c. 607, Pt. B, §7 (AMD); PL 2021, c. 669, §5 (REV).]

**10. Unclassified importer.**

[PL 2005, c. 627, §5 (RP).]

**11. Wholesale sales price.** "Wholesale sales price" means the price for which a manufacturer sells tobacco products to a distributor, exclusive of any discount or other reduction.

[PL 2005, c. 627, §6 (AMD).]

**SECTION HISTORY**

PL 1985, c. 783, §16 (NEW). PL 2005, c. 627, §§1-6 (AMD). PL 2011, c. 285, §§11, 12 (AMD). PL 2019, c. 530, Pt. A, §§1, 2 (AMD). PL 2019, c. 530, Pt. A, §7 (AFF). PL 2019, c. 607, Pt. B, §7 (AMD). PL 2021, c. 669, §5 (REV).

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