

1 shall be based on the actual amount of taxes, interest and/or penalties collected and/or the amount  
2 by which the claimed refund is reduced.

3 (b) The division of taxation may not enter into a contingent fee contract under which the  
4 person directly conducts a field audit.

5 (c) The division of taxation shall publish an annual report setting forth the number of  
6 contracts entered into under paragraph (a), the amount collected and the percentage of the  
7 contingency fee arrangement of each contract.

8 (d) With respect to any contingent fee contract entered into pursuant to subsection (a)  
9 above, the division of taxation is authorized to utilize a portion of the balance of monies collected  
10 under said contract(s) after payment of the contingent fee payable thereunder, for the support and  
11 maintenance of the division's computer system, as authorized by the director of the office of  
12 management and budget.

13 SECTION 7. This article shall take effect as of July 1, 2017.

14 **ARTICLE 8**

15 RELATING TO TAX AND REVENUES

16 SECTION 1. Section 31-36-20 of the General Laws in Chapter 31-36 entitled "Motor  
17 Fuel Tax" is hereby amended to read as follows:

18 **31-36-20. Disposition of proceeds.**

19 (a) Notwithstanding any other provision of law to the contrary, all moneys paid into the  
20 general treasury under the provisions of this chapter or chapter 37 of this title, and title 46 shall be  
21 applied to and held in a separate fund and be deposited in any depositories that may be selected  
22 by the general treasurer to the credit of the fund, which fund shall be known as the Intermodal  
23 Surface Transportation Fund; provided, that in fiscal year 2004 for the months of July through  
24 April six and eighty-five hundredth cents (\$0.0685) per gallon of the tax imposed and accruing  
25 for the liability under the provisions of § 31-36-7, less refunds and credits, shall be transferred to  
26 the Rhode Island public transit authority as provided under § 39-18-21. For the months of May  
27 and June in fiscal year 2004, the allocation shall be five and five hundredth cents (\$0.0505).  
28 Thereafter, until fiscal year 2006, the allocation shall be six and twenty-five hundredth cents  
29 (\$0.0625). For fiscal years 2006 through FY 2008, the allocation shall be seven and twenty-five  
30 hundredth cents (\$0.0725); provided, that expenditures shall include the costs of a market survey  
31 of non-transit users and a management study of the agency to include the feasibility of moving  
32 the Authority into the Department of Transportation, both to be conducted under the auspices of  
33 the state budget officer. The state budget officer shall hire necessary consultants to perform the  
34 studies, and shall direct payment by the Authority. Both studies shall be transmitted by the

1 Budget Officer to the 2006 session of the General Assembly, with comments from the Authority.  
2 For fiscal year 2009, the allocation shall be seven and seventy-five hundredth cents (\$0.0775), of  
3 which one-half cent (\$0.005) shall be derived from the one cent (\$0.01) per gallon environmental  
4 protection fee pursuant to § 46-12.9-11. For fiscal years 2010 and thereafter, the allocation shall  
5 be nine and seventy-five hundredth cents (\$0.0975), of which of one-half cent (\$0.005) shall be  
6 derived from the one cent (\$0.01) per gallon environmental protection fee pursuant to § 46-12.9-  
7 11. ~~One-cent (\$0.01)~~ Twenty-one hundredth cents (\$0.0021) per gallon shall be transferred to the  
8 Elderly/Disabled Transportation Program of the department of human services, and seventy-nine  
9 hundredth cents (\$0.0079) shall be transferred to the Rhode Island public transit authority for the  
10 elderly/disabled transportation program, and the remaining cents per gallon shall be available for  
11 general revenue as determined by the following schedule:

12 (i) For the fiscal year 2000, three and one fourth cents (\$0.0325) shall be available for  
13 general revenue.

14 (ii) For the fiscal year 2001, one and three-fourth cents (\$0.0175) shall be available for  
15 general revenue.

16 (iii) For the fiscal year 2002, one-fourth cent (\$0.0025) shall be available for general  
17 revenue.

18 (iv) For the fiscal year 2003, two and one-fourth cent (\$0.0225) shall be available for  
19 general revenue.

20 (v) For the months of July through April in fiscal year 2004, one and four-tenths cents  
21 (\$0.014) shall be available for general revenue. For the months of May through June in fiscal year  
22 2004, three and two-tenths cents (\$0.032) shall be available for general revenue, and thereafter,  
23 until fiscal year 2006, two cents (\$0.02) shall be available for general revenue. For fiscal year  
24 2006 through fiscal year 2009 one cent (\$0.01) shall be available for general revenue.

25 (2) All deposits and transfers of funds made by the tax administrator under this section,  
26 including those to the Rhode Island public transit authority, the department of human services and  
27 the general fund, shall be made within twenty-four (24) hours of receipt or previous deposit of the  
28 funds in question.

29 (3) Commencing in fiscal year 2004, the Director of the Rhode Island Department of  
30 Transportation is authorized to remit, on a monthly or less frequent basis as shall be determined  
31 by the Director of the Rhode Island Department of Transportation, or his or her designee, or at the  
32 election of the Director of the Rhode Island Department of Transportation, with the approval of  
33 the Director of the Department of Administration, to an indenture trustee, administrator, or other  
34 third party fiduciary, in an amount not to exceed two cents (\$0.02) per gallon of the gas tax

1 imposed, in order to satisfy debt service payments on aggregate bonds issued pursuant to a Joint  
2 Resolution and Enactment Approving the Financing of Various Department of Transportation  
3 Projects adopted during the 2003 session of the General Assembly, and approved by the  
4 Governor.

5 (4) Commencing in fiscal year 2015, three and one-half cents (\$0.035) shall be  
6 transferred to the Rhode Island Turnpike and Bridge Authority to be used for maintenance,  
7 operations, capital expenditures and debt service on any of its projects as defined in chapter 12 of  
8 title 24 in lieu of a toll on the Sakonnet River Bridge. The Rhode Island turnpike and bridge  
9 authority is authorized to remit to an indenture trustee, administrator, or other third party  
10 fiduciary any or all of the foregoing transfers in order to satisfy and/or secure its revenue bonds  
11 and notes and/or debt service payments thereon, including, but not limited to, the bonds and notes  
12 issued pursuant to the Joint Resolution set forth in Section 3 of Article 6 of Chapter 23 of the  
13 Public Laws of 2010. Notwithstanding any other provision of said Joint Resolution the Rhode  
14 Island turnpike and bridge authority is expressly authorized to issue bonds and notes previously  
15 authorized under said Joint Resolution for financing all expenses incurred by it for the formerly  
16 authorized tolling of the Sakonnet River Bridge and the termination thereof.

17 (b) Notwithstanding any other provision of law to the contrary, all other funds in the fund  
18 shall be dedicated to the department of transportation, subject to annual appropriation by the  
19 general assembly. The director of transportation shall submit to the general assembly, budget  
20 office and office of the governor annually an accounting of all amounts deposited in and credited  
21 to the fund together with a budget for proposed expenditures for the succeeding fiscal year in  
22 compliance with §§ 35-3-1 and 35-3-4. On order of the director of transportation, the state  
23 controller is authorized and directed to draw his or her orders upon the general treasurer for the  
24 payments of any sum or portion of the sum that may be required from time to time upon receipt  
25 of properly authenticated vouchers.

26 (c) At any time the amount of the fund is insufficient to fund the expenditures of the  
27 department of transportation, not to exceed the amount authorized by the general assembly, the  
28 general treasurer is authorized, with the approval of the governor and the director of  
29 administration, in anticipation of the receipts of monies enumerated in § 31-36-20 to advance  
30 sums to the fund, for the purposes specified in § 31-36-20, any funds of the state not specifically  
31 held for any particular purpose. However, all the advances made to the fund shall be returned to  
32 the general fund immediately upon the receipt by the fund of proceeds resulting from the receipt  
33 of monies to the extent of the advances.

34 SECTION 2. Sections 44-20-12 and 44-20-13 of the General Laws in Chapter 44-20

1 entitled "Cigarette Tax" are hereby amended to read as follows:

2 **44-20-12. Tax imposed on cigarettes sold.**

3 A tax is imposed on all cigarettes sold or held for sale in the state. The payment of the tax  
4 to be evidenced by stamps, which may be affixed only by licensed distributors to the packages  
5 containing such cigarettes. Any cigarettes on which the proper amount of tax provided for in this  
6 chapter has been paid, payment being evidenced by the stamp, is not subject to a further tax under  
7 this chapter. The tax is at the rate of ~~one hundred eighty-seven and one half (187.5)~~ two hundred  
8 twelve and one-half (212.5) mills for each cigarette.

9 **44-20-13. Tax imposed on unstamped cigarettes.**

10 A tax is imposed at the rate of ~~one hundred eighty-seven and one half (187.5)~~ two  
11 hundred twelve and one-half (212.5) mills for each cigarette upon the storage or use within this  
12 state of any cigarettes not stamped in accordance with the provisions of this chapter in the  
13 possession of any consumer within this state.

14 SECTION 3. Chapter 44-20 of the General Laws entitled "Cigarette Tax" is hereby  
15 amended by adding thereto the following section:

16 **44-20-12.6. Floor stock tax on cigarettes and stamps.**

17 (a) Each person engaging in the business of selling cigarettes at retail in this state shall  
18 pay a tax or excise to the state for the privilege of engaging in that business during any part of the  
19 calendar year 2017. In calendar year 2017, the tax shall be measured by the number of cigarettes  
20 held by the person in this state at 12:01 a.m. on August 1, 2017 and is computed at the rate of  
21 twenty-five (25.0) mills for each cigarette on August 1, 2017.

22 (b) Each distributor licensed to do business in this state pursuant to this chapter shall pay  
23 a tax or excise to the state for the privilege of engaging in that business during any part of the  
24 calendar year 2017. The tax is measured by the number of stamps, whether affixed or to be  
25 affixed to packages of cigarettes, as required by § 44-20-28. In calendar year 2017 the tax is  
26 measured by the number of stamps), whether affixed or to be affixed, held by the distributor at  
27 12:01 a.m. on August 1, 2017, and is computed at the rate of twenty-five (25.0) mills per cigarette  
28 in the package to which the stamps are affixed or to be affixed.

29 (c) Each person subject to the payment of the tax imposed by this section shall, on or  
30 before August 15, 2017, file a return, under oath or certified under the penalties of perjury, with  
31 the tax administrator on forms furnished by him or her, showing the amount of cigarettes and the  
32 number of stamps in that person's possession in this state at 12:01 a.m. on August 1, 2017, as  
33 described in this section above, and the amount of tax due, and shall at the time of filing the  
34 return pay the tax to the tax administrator. Failure to obtain forms shall not be an excuse for the

1 failure to make a return containing the information required by the tax administrator.

2 (d) The tax administrator may prescribe rules and regulations, not inconsistent with law,  
3 with regard to the assessment and collection of the tax imposed by this section.

4 SECTION 4. Chapter 44-1 of the General Laws entitled "State Tax Officials" is hereby  
5 amended by adding thereto the following sections:

6 **44-1-37. Administrative penalties and attorney's fees.**

7 (a) Whenever a licensee and/or a taxpayer violates any provision of title 44 or the  
8 regulations promulgated thereunder, the tax administrator may, in accordance with the  
9 requirements of the Administrative Procedures Act, Chapter 35 of Title 42 of the Rhode Island  
10 General Laws:

11 (1) Revoke or suspend a license or permit issued by the division of taxation;

12 (2) Levy an administrative penalty in an amount not less than one hundred (\$100) nor  
13 more than fifty thousand dollars (\$50,000);

14 (3) Order the violator to cease such actions; and/or

15 (4) Any combination of the above penalties.

16 (b) The tax administrator is hereby authorized, and may in his or her discretion, recover  
17 the reasonable cost of legal services provided by in-house attorneys in the Department of  
18 Revenue and/or the Division of Taxation incurred in matters pertaining to administrative  
19 hearings, court hearings, and appeals. Nothing in this section shall limit the power of the tax  
20 administrator to retain outside legal counsel and to recover the costs of such legal counsel  
21 pursuant to other provisions of the general laws.

22 (c) Any monetary penalties assessed pursuant to this section shall be as general revenues.

23 **44-1-38. Jeopardy determinations.**

24 If the tax administrator believes that the collection of any amount of tax, interest, and/or  
25 penalty assessed in a notice of deficiency determination will be jeopardized by a delay which  
26 could render a person or entity judgment proof and/or frustrate the collectability of said  
27 determination, the tax administrator shall thereupon make a jeopardy determination of the amount  
28 of tax required to be collected, including interest and penalties, if any. Said jeopardy  
29 determination shall state briefly the facts upon which it is based. The amount of the tax, interest,  
30 and/or penalties so determined is shall be due and payable immediately upon the mailing by the  
31 tax administrator of the notice of that jeopardy determination. Within thirty (30) days of the date  
32 of the mailing of the notice of the jeopardy determination, the taxpayer may bring an action in the  
33 sixth (6th) division district court appealing the jeopardy determination. Within twenty (20) days  
34 after the action is commenced, the district court shall make a determination of whether or not the

1 [making of the jeopardy assessment is was reasonable under the circumstances.](#)

2 **44-1-39. Information deemed state property.**

3 [For the purpose of determining taxpayer compliance, any and all information or data](#)  
4 [required to be generated or maintained pursuant to title 44 and/or the regulations promulgated](#)  
5 [thereunder, shall be deemed to be the property of the State of Rhode Island.](#)

6 SECTION 5. Sections 44-11-2.2 and 44-11-29 of the General Laws in Chapter 44-11  
7 entitled "Business Corporation Tax" are hereby amended to read as follows:

8 **44-11-2.2 Pass-Through Entities – Definitions – Withholding – Returns.**

9 (a) Definitions.

10 (1) "Pass-through entity" means a corporation that for the applicable tax year is treated as  
11 an S Corporation under IRC § 1362(a) [26 U.S.C. § 1362(a)], and a general partnership, limited  
12 partnership, limited liability partnership, trust, or limited liability company that for the applicable  
13 tax year is not taxed as a corporation for federal tax purposes under the state's check-the-box  
14 regulation.

15 (2) "Member" means an individual who is a shareholder of an S corporation; a partner in  
16 a general partnership, a limited partnership, or a limited liability partnership; a member of a  
17 limited liability company; or a beneficiary of a trust;

18 (3) "Nonresident" means an individual who is not a resident of or domiciled in the state, a  
19 business entity that does not have its commercial domicile in the state, and a trust not organized  
20 in the state.

21 (b) *Withholding.*

22 (1) A pass-through entity shall withhold income tax at the highest Rhode Island  
23 withholding tax rate provided for individuals or ~~nine percent (9%)~~ [seven percent \(7%\)](#) for  
24 corporations on the member's share of income of the entity which is derived from or attributable  
25 to sources within this state distributed to each nonresident member and pay the withheld amount  
26 in the manner prescribed by the tax administrator. The pass-through entity shall be liable for the  
27 payment of the tax required to be withheld under this section and shall not be liable to such  
28 member for the amount withheld and paid over in compliance with this section. A member of a  
29 pass-through entity that is itself a pass-through entity (a "lower-tier pass-through entity") shall be  
30 subject to this same requirement to withhold and pay over income tax on the share of income  
31 distributed by the lower-tier pass-through entity to each of its nonresident members. The tax  
32 administrator shall apply tax withheld and paid over by a pass-through entity on distributions to a  
33 lower-tier pass-through entity to the withholding required of that lower-tier pass-through entity.

34 (2) A pass-through entity shall, at the time of payment made pursuant to this section,

1 deliver to the tax administrator a return upon a form prescribed by the tax administrator showing  
2 the total amounts paid or credited to its nonresident members, the amount withheld in accordance  
3 with this section, and any other information the tax administrator may require. A pass-through  
4 entity shall furnish to its nonresident member annually, but not later than the fifteenth day of the  
5 third month after the end of its taxable year, a record of the amount of tax withheld on behalf of  
6 such member on a form prescribed by the tax administrator.

7 (c) Notwithstanding subsection (b), a pass-through entity is not required to withhold tax  
8 for a nonresident member if:

9 (1) The member has a pro rata or distributive share of income of the pass-through entity  
10 from doing business in, or deriving income from sources within, this State of less than \$1,000 per  
11 annual accounting period;

12 (2) The tax administrator has determined by regulation, ruling or instruction that the  
13 member's income is not subject to withholding; or

14 (3) The member elects to have the tax due paid as part of a composite return filed by the  
15 pass-through entity under subsection (d); or

16 (4) The entity is a publicly traded partnership as defined by Section 7704(b) of the  
17 Internal Revenue Code (26 U.S.C. § 7704(b)) that is treated as a partnership for the purposes of  
18 the Internal Revenue Code and that has agreed to file an annual information return reporting the  
19 name, address, taxpayer identification number and other information requested by the tax  
20 administrator of each unitholder with an income in the state in excess of \$500.

21 *(d) Composite return.*

22 (1) A pass-through entity may file a composite income tax return on behalf of electing  
23 nonresident members reporting and paying income tax at the state's highest marginal rate on the  
24 members' pro rata or distributive shares of income of the pass-through entity from doing business  
25 in, or deriving income from sources within, this State.

26 (2) A nonresident member whose only source of income within a state is from one or  
27 more pass-through entities may elect to be included in a composite return filed pursuant to this  
28 section.

29 (3) A nonresident member that has been included in a composite return may file an  
30 individual income tax return and shall receive credit for tax paid on the member's behalf by the  
31 pass-through entity.

32 **44-11-29. Notice to tax administrator of sale of assets – Tax due.**

33 (a) The sale or transfer of the major part in value of the assets of a domestic corporation,  
34 [domestic limited liability company, domestic limited partnership, or any other domestic business](#)

1 entity, or of the major part in value of the assets situated in this state of a foreign corporation,  
2 foreign limited liability company, foreign limited partnership, or any other foreign business  
3 entity, other than in the ordinary course of trade and in the regular and usual prosecution of ~~the~~  
4 ~~corporation's~~ business by said corporation, limited liability company, limited partnership, or any  
5 other business entity whether domestic or foreign, and the sale or transfer of the major part in  
6 value of the assets of a domestic corporation, domestic limited liability company, domestic  
7 limited partnership, or any other domestic corporation business entity, or of the major part in  
8 value of the assets situated in this state of a foreign corporation, foreign limited liability company,  
9 foreign limited partnership, or any other foreign business entity which is engaged in the business  
10 of buying, selling, leasing, renting, managing, or dealing in real estate, shall be fraudulent and  
11 void as against the state unless the corporation, limited liability company, limited partnership, or  
12 any other business entity, whether domestic or foreign, ~~corporation shall~~, at least five (5) business  
13 days before the sale or transfer, ~~notify~~ notifies the tax administrator of the proposed sale or  
14 transfer and of the price, terms, and conditions of the sale or transfer and of the character and  
15 location of the assets by requesting a letter of good standing from the tax division. Whenever a  
16 corporation, limited liability company, limited partnership, or any other business entity, whether  
17 domestic or foreign, shall makes such a sale or transfer, ~~the tax imposed by this chapter~~ any and  
18 all tax returns required to be filed under this title must be filed and any and all taxes imposed  
19 under this title shall become due and payable at the time when the tax administrator is so notified  
20 of the sale or transfer, or, if he or she is not so notified, at the time when he or she should have  
21 been notified of the sale or transfer.

22 (b) This section shall not apply to sales by receivers, assignees under a voluntary  
23 assignment for the benefit of creditors, trustees in bankruptcy, debtors in possession in  
24 bankruptcy, or public officers acting under judicial process.

25 SECTION 6. Section 44-18-30 of the General Laws in Chapter 44-18 entitled "Sales and  
26 Use Taxes – Liability and Computation" is hereby amended to read as follows:

27 **44-18-30.1. Application for certificate of exemption – Fees.**

28 A fee of twenty-five dollars (\$25.00) shall be paid by all organizations applying for a  
29 certificate of exemption from the Rhode Island sales and use tax under § 44-18-30(5). The  
30 certificate of exemption shall be valid for four (4) years from the date of issue. All fees collected  
31 under this section shall be allocated to the tax administrator for enforcement and collection of all  
32 taxes. All certificates issued prior to the effective date of this section shall expire four (4) years  
33 from the effective date of this section.

34 SECTION 7. Sections 44-19-22, 44-19-31, and 44-19-42 of the General Laws in Chapter



1 44-19 entitled “Sales and Use Taxes – Enforcement and Collection” are hereby amended to read  
2 as follows:

3 **44-19-22. Notice of transfer of business – Taxes due immediately.**

4 The sale or transfer by any taxpayer other than receivers, assignees under a voluntary  
5 assignment for the benefit of creditors, trustees in bankruptcy, [debtors in possession in](#)  
6 [bankruptcy](#), or public officers acting under judicial process of the major part in value of the assets  
7 of the taxpayer [other](#) than in the ordinary course of trade and the regular and usual prosecution of  
8 the taxpayer’s business, is fraudulent and void as against the state, unless the taxpayer, at least  
9 five (5) days before the sale or transfer, notifies the tax administrator of the proposed sale or  
10 transfer and of the price, terms, and conditions of the sale [or transfer](#) and of the character and  
11 location of those assets [by requesting a letter of good standing from the tax division](#). Whenever  
12 the taxpayer makes a sale or transfer, [any and all tax returns required to be filed under this title](#)  
13 [must be filed and any and](#) all taxes imposed under ~~by chapter 18 of~~ this title must be paid at the  
14 time ~~when~~ the tax administrator is [so](#) notified [of the sale or transfer](#), or, if the administrator is not  
15 [so](#) notified, at the time when [he or she](#) ~~the administrator~~ should have been notified [of the sale or](#)  
16 [transfer](#).

17 **44-19-31. Penalty for violations generally.**

18 Any retailer or other person failing to file a return or report required by this chapter, or  
19 filing or causing to be filed, or making or causing to be made, or giving or causing to be given  
20 any return, report, certificate, affidavit, representation, information, testimony, or statement  
21 required or authorized by this chapter, which is willfully false, or willfully failing to file a bond  
22 required by this chapter or willfully failing to comply with the provisions of this chapter, or  
23 failing to file a registration certificate and that data in connection with it as the tax administrator  
24 by regulation or may require, or to display or surrender a permit as required by this chapter, or  
25 assigning or transferring the permit, or failing to file a notice of a show or failing to display a  
26 permit to operate a show or operating a show without obtaining a permit, or permitting a person  
27 to display or sell tangible personal property, services, or food and drink at a show without  
28 displaying a permit, or willfully failing to charge separately the tax imposed by this chapter or to  
29 state the tax separately on any bill, statement, memorandum, or receipt issued or employed by the  
30 person upon which the tax is required to be stated separately as provided in § 44-19-8, or willfully  
31 failing to collect the tax from a customer, [or willfully failing to remit any tax to the state which](#)  
32 [was collected from a customer](#), or who refers or causes reference to be made to this tax in a form  
33 or manner other than that required by this chapter, or failing to keep any records required by this  
34 chapter, is, in addition to any other penalties in this chapter or elsewhere prescribed, guilty of a

1 felony, punishment for which is a fine of not more than ~~ten thousand dollars (\$10,000)~~ twenty-  
2 five thousand dollars (\$25,000), or imprisonment for ~~one~~ five years, or both.

3 **44-19-42. Suppression of Sales ~~Sales suppression devices~~ – Definitions and**  
4 **applicability.**

5 (a) As used in this section:

6 (1) “Automated sales suppression device,” also known as a “zapper,” means a software  
7 program, carried on a memory stick or removable compact disc, accessed through an Internet  
8 link, or accessed through any other means, that falsifies transaction data, transaction reports, or  
9 any other electronic records of electronic cash registers and other point-of-sale systems.

10 (2) “Electronic cash register” means a device that keeps a register, accounting, or  
11 supporting documents through the means of an electronic device or computer system designed to  
12 record transaction data for the purpose of computing, compiling, or processing retail sales  
13 transaction data in any manner.

14 (3) “Phantom-ware” means a hidden programming option, whether preinstalled or  
15 installed at a later time, embedded in the operating system of an electronic cash register or  
16 hardwired into the electronic cash register that:

17 (i) Can be used to create a virtual second till; or

18 (ii) May eliminate or manipulate transaction records in any manner.

19 (4) “Remote data manipulation” means and includes, but is not limited to, sending,  
20 transmitting, transporting, or receiving through any electronic means any and all transaction data  
21 to a remote location, whether or not that location is within Rhode Island or outside the state or the  
22 United States, for the purpose of manipulating and/or altering said data in any way, whether or  
23 not the actual manipulation is performed manually or through automated means.

24 ~~(4)~~(5) “Transaction data” includes items purchased by a customer, the price for each  
25 item. A taxability determination for each item, a segregated tax amount for each of the taxed  
26 items, the amount of cash, debit, or credit tendered, the net amount returned to the customer in  
27 change, the date and time of the purchase, the name, address, and identification number of the  
28 vendor, and the receipt or invoice number of the transaction.

29 ~~(5)~~(6) “Transaction reports” means a report documenting, but not limited to, the sales,  
30 the taxes collected, media totals, and discount voids at an electronic cash register that is  
31 printed on cash register tape at the end of a day or shift, or a report documenting every action at  
32 an electronic cash register that is stored electronically.

33 (b) A person shall not knowingly sell, purchase, install, transfer or possess an automated  
34 sales suppression device or phantom-ware.

1 [\(c\) A person shall not knowingly suppress sales by engaging in remote data manipulation,](#)  
2 [either as the sender or the receiver of the information.](#)

3 ~~(d)~~ Any person who violates subdivision (b) [and/or \(c\)](#) of this section shall be guilty of  
4 a felony and, upon conviction, shall be subject to a fine not exceeding fifty-thousand dollars  
5 (\$50,000) or imprisonment not exceeding five (5) years, or both.

6 ~~(e)~~ In addition, a person who violates subdivision (b) [and/or \(c\)](#) of this section shall be  
7 liable to the state for:

8 (1) All taxes, interest, and penalties due as the result of the person's use of an automated  
9 sales suppression device or phantom-ware [and/or remote data manipulation](#); and

10 (2) All profits associated with the person's sale of an automated sales suppression device  
11 or phantom-ware [and/or remote data manipulation](#).

12 ~~(f)~~ An automated sales suppression device or phantom-ware and any device containing  
13 such device or software shall be deemed contraband and shall be subject to seizure by the tax  
14 administrator or by a law enforcement officer when directed to do so by the tax administrator.

15 ~~(g)~~ Safe harbor. A person shall not be subject to prosecution under Rhode Island  
16 general laws § 44-19-42, if by October 1, 2014, the person:

17 (1) Notifies the division of taxation of the person's possession of an automated sales  
18 suppression device;

19 (2) Provides any and all information requested by the division of taxation, including  
20 transaction records, software specifications, encryption keys, passwords, and other data; and

21 (3) Corrects any underreported sales tax records and fully pays the division of taxation  
22 any amounts previously owed.

23 ~~(h)~~ This section shall not be construed to limit the person's civil or criminal liability  
24 under any other provision of the law.

25 SECTION 8. Sections 44-20-1, 44-20-3, 44-20-4.1, 44-20-8, 44-20-8.2, 44-20-13.2, 44-  
26 20-15, 44-20-33, 44-20-35, 44-20-40.1, 44-20-43, 44-20-45, and 44-20-51.1 of the General Laws  
27 in Chapter 44-20 entitled "Cigarette Tax" are hereby amended to read as follows:

#### 28 CHAPTER 44-20

#### 29 CIGARETTE [AND OTHER TOBACCO PRODUCTS TAX](#)

##### 30 **44-20-1. Definitions.**

31 Whenever used in this chapter, unless the context requires otherwise:

32 (1) "Administrator" means the tax administrator;

33 (2) "Cigarettes" means and includes any cigarettes suitable for smoking in cigarette form,  
34 and each sheet of cigarette rolling paper, [including but not limited to, paper made into a hollow](#)

1 [cylinder or cone, made with paper or any other material, with or without a filter suitable for use in](#)  
2 [making cigarettes;](#)

3 (3) "Dealer" means any person whether located within or outside of this state, who sells  
4 or distributes cigarettes [and/or other tobacco products](#) to a consumer in this state;

5 (4) "Distributor" means any person:

6 (A) Whether located within or outside of this state, other than a dealer, who sells or  
7 distributes cigarettes [and/or other tobacco products](#) within or into this state. Such term shall not  
8 include any cigarette [or other tobacco product](#) manufacturer, export warehouse proprietor, or  
9 importer with a valid permit under 26 U.S.C. § 5712, if such person sells or distributes cigarettes  
10 [and/or other tobacco products](#) in this state only to licensed distributors, or to an export warehouse  
11 proprietor or another manufacturer with a valid permit under 26 U.S.C. § 5712;

12 (B) Selling cigarettes [and/or other tobacco products](#) directly to consumers in this state by  
13 means of at least twenty-five (25) ~~cigarette~~ vending machines;

14 (C) Engaged in this state in the business of manufacturing cigarettes [and/or other tobacco](#)  
15 [products](#) or any person engaged in the business of selling cigarettes [and/or other tobacco products](#)  
16 to dealers, or to other persons, for the purpose of resale only; provided, that seventy-five percent  
17 (75%) of all cigarettes [and/or other tobacco products](#) sold by that person in this state are sold to  
18 dealers or other persons for resale and selling cigarettes [and/or other tobacco products](#) directly to  
19 at least forty (40) dealers or other persons for resale; or

20 (D) Maintaining one or more regular places of business in this state for that purpose;  
21 provided, that seventy-five percent (75%) of the sold cigarettes [and/or other tobacco products](#) are  
22 purchased directly from the manufacturer and selling cigarettes [and/or other tobacco products](#)  
23 directly to at least forty (40) dealers or other persons for resale;

24 (5) "Importer" means any person who imports into the United States, either directly or  
25 indirectly, a finished cigarette [or other tobacco product](#) for sale or distribution;

26 (6) "Licensed", when used with reference to a manufacturer, importer, distributor or  
27 dealer, means only those persons who hold a valid and current license issued under § 44-20-2 for  
28 the type of business being engaged in. When the term "licensed" is used before a list of entities,  
29 such as "licensed manufacturer, importer, wholesale dealer, or retailer dealer," such term shall be  
30 deemed to apply to each entity in such list;

31 (7) "Manufacturer" means any person who manufactures, fabricates, assembles,  
32 processes, or labels a finished cigarette [and/or other tobacco products](#);

33 [\(8\) "Other tobacco products" \(OTP\) means any cigars \(excluding Little Cigars, as](#)  
34 [defined in § 44-20.2-1, which are subject to cigarette tax\), cheroots, stogies, smoking tobacco](#)

1 (including granulated, plug cut, crimp cut, ready rubbed and any other kinds and forms of tobacco  
2 suitable for smoking in a otherwise), chewing tobacco (including Cavendish, twist, plug, scrap  
3 and any other kinds and forms of tobacco suitable for chewing), any and all forms of hookah,  
4 shisha and “mu’assel” tobacco, snuff, and shall include any other articles or products made of or  
5 containing tobacco, in whole or in part, or any tobacco substitute, except cigarettes;

6 ~~(8)~~(9) "Person" means any individual, including an employee or agent, firm, fiduciary,  
7 partnership, corporation, trust, or association, however formed;

8 (10) “Pipe” means an apparatus made of any material used to burn or vaporize products  
9 so that the smoke or vapors can be inhaled or ingested by the user;

10 ~~(9)~~(11) "Place of business" means ~~and includes~~ any ~~plaae~~ location where cigarettes  
11 and/or other tobacco products are sold, ~~or where cigarettes are~~ stored, or kept ~~for the purpose of~~  
12 ~~sale or consumption~~, including, but not limited to, any storage room, attic, basement, garage or  
13 other facility immediately adjacent to the location. It also includes any receptacle, hide, vessel,  
14 vehicle, airplane, train, or vending machine;

15 ~~(10)~~(12) "Sale" or "sell" ~~includes and applies to~~ means gifts, exchanges, and barter; ~~of~~  
16 cigarettes and/or other tobacco products. The act of holding, storing, or keeping cigarettes and/or  
17 other tobacco products at a place of business for any purpose shall be presumed to be holding the  
18 cigarettes and/or other tobacco products for sale. Furthermore, any sale of cigarettes and/or other  
19 tobacco products by the servants, employees, or agents of the licensed dealer during business  
20 hours at the place of business shall be presumed to be a sale by the licensee;

21 ~~(11)~~(13) "Stamp" means the impression, device, stamp, label, or print manufactured,  
22 printed, or made as prescribed by the administrator to be affixed to packages of cigarettes, as  
23 evidence of the payment of the tax provided by this chapter or to indicate that the cigarettes are  
24 intended for a sale or distribution in this state that is exempt from state tax under the provisions of  
25 state law; and also includes impressions made by metering machines authorized to be used under  
26 the provisions of this chapter.

27 **44-20-3. Penalties for unlicensed business.**

28 Any distributor or dealer who sells, offers for sale, or possesses with intent to sell,  
29 cigarettes and/or any other tobacco products without a license as provided in § 44-20-2, ~~shall be~~  
30 ~~fined in accordance with the provisions of and the penalties contained in § 11-9-13.15.~~ shall be  
31 guilty of a misdemeanor, and shall be fined not more than ten thousand dollars (\$10,000) for each  
32 offense, or be imprisoned for a term not to exceed one (1) year, or be punished by both a fine and  
33 imprisonment.

34 **44-20-4.1. License availability.**

1 (a) No license under this chapter may be granted, maintained or renewed if the applicant,  
2 or any combination of persons owning directly or indirectly any interests in the applicant:

3 (1) Owes five hundred dollars (\$500) or more in delinquent ~~cigarette~~ taxes;

4 (2) Is delinquent in any tax filings for one month or more;

5 (3) Had a license under this chapter revoked by the administrator within the past two (2)  
6 years;

7 (4) Has been convicted of a crime relating to cigarettes ~~stolen or counterfeit cigarettes~~  
8 and/or other tobacco products;

9 (5) Is a cigarette manufacturer or importer that is neither: (i) a participating manufacturer  
10 as defined in subsection II (jj) of the “Master Settlement Agreement” as defined in § 23-71-2; nor  
11 (ii) in full compliance with chapter 20.2 of this title and § 23-71-3;

12 (6) Has imported, or caused to be imported, into the United States any cigarette or other  
13 tobacco product in violation of 19 U.S.C. § 1681a; or

14 (7) Has imported, or caused to be imported, into the United States, or manufactured for  
15 sale or distribution in the United States any cigarette that does not fully comply with the Federal  
16 Cigarette Labeling and Advertising Act (15 U.S.C. § 1331, et. seq).

17 (b)(1) No person shall apply for a new license or permit (as defined in § 44-19-1) or  
18 renewal of a license or permit, and no license or permit shall be issued or renewed for any  
19 applicant, or any combination of persons owning directly or indirectly any interests in the  
20 applicant ~~person~~, unless all outstanding fines, fees or other charges relating to any license or  
21 permit held by ~~that person~~ the applicant, or any combination of persons owning directly or  
22 indirectly any interests in the applicant, as well as any other tax obligations of the applicant, or  
23 any combination of persons owning directly or indirectly any interests in the applicant have been  
24 paid.

25 (2) No license or permit shall be issued relating to a business ~~at any specific location~~ until  
26 all prior licenses or permits relating to that business or to that location have been officially  
27 terminated and all fines, fees or charges relating to the prior ~~licenses~~ license or permit have been  
28 paid or otherwise resolved or the administrator has found that the person applying for the new  
29 license or permit is not acting as an agent for the prior licensee or permit holder who is subject to  
30 any such related fines, fees or charges that are still due. Evidence of such agency status includes,  
31 but is not limited to, a direct familial relationship and/or an employment, contractual or other  
32 formal financial or business relationship with the prior licensee or permit holder.

33 (3) No person shall apply for a new license or permit pertaining to a specific location in  
34 order to evade payment of any fines, fees or other charges relating to a prior license or permit ~~for~~

1 ~~that location.~~

2 (4) No new license or permit shall be issued for a business at a specific location for which  
3 a license or permit already has been issued unless there is a bona fide, good faith change in  
4 ownership of the business at that location.

5 (5) No license or permit shall be issued, renewed or maintained for any person, including  
6 the owners of the business being licensed or having applied and received a permit, that has been  
7 convicted of violating any criminal law relating to tobacco products, the payment of taxes or  
8 fraud or has been ordered to pay civil fines of more than twenty-five thousand (\$25,000) dollars  
9 for violations of any civil law relating to tobacco products, the payment of taxes or fraud.

10 **44-20-8. Suspension or revocation of license.**

11 The tax administrator may suspend or revoke any license under this chapter for failure of  
12 the licensee to comply with any provision of this chapter or with any provision of any other law  
13 or ordinance relative to the sale or purchase of cigarettes or other tobacco products; ~~and the~~. The  
14 tax administrator may also suspend or revoke any license for failure of the licensee to comply  
15 with any provision of chapter 19 of title 44 and chapter 13 of title 6, and, for the purpose of  
16 determining whether the licensee is complying with any provision of chapter 13 of title 6, the tax  
17 administrator and his or her authorized agents are empowered, in addition to authority conferred  
18 by § 44-20-40, to examine the books, papers, and records of any licensee. The administrator shall  
19 revoke the license of any person who would be ineligible to obtain a new or renew a license by  
20 reason of any of the conditions for licensure provided in § 44-20-4.1. Any person aggrieved by  
21 the suspension or revocation may apply to the administrator for a hearing as provided in § 44-20-  
22 47, and may further appeal to the district court as provided in § 44-20-48.

23 **44-20-8.2. Transactions only with licensed manufacturers, importers, distributors,**  
24 **and dealers.**

25 A manufacturer or importer may sell or distribute cigarettes and/or other tobacco  
26 products to a person located or doing business within this state, only if such person is a licensed  
27 importer or distributor. An importer may obtain cigarettes and/or other tobacco products only  
28 from a licensed manufacturer. A distributor may sell or distribute cigarettes and/or other tobacco  
29 products to a person located or doing business within this state, only if such person is a licensed  
30 distributor or dealer. A distributor may obtain cigarettes and/or other tobacco products only from  
31 a licensed manufacturer, importer, or distributor. A dealer may obtain cigarettes and/or other  
32 tobacco products only from a licensed distributor.

33 **44-20-13.2. Tax imposed on other tobacco products, smokeless tobacco, cigars, and**  
34 **pipe tobacco products.**

1 (a) A tax is imposed on all other tobacco products, smokeless tobacco, cigars, and pipe  
2 tobacco products sold, ~~or~~ or held for sale in the state by any person, the payment of the tax to be  
3 accomplished according to a mechanism established by the administrator, division of taxation,  
4 department of administration revenue. ~~Any tobacco product on which the proper amount of tax~~  
5 ~~provided for in this chapter has been paid, payment being evidenced by a stamp, is not subject to~~  
6 ~~a further tax under this chapter.~~ The tax imposed by this section shall be as follows:

7 (1) At the rate of eighty percent (80%) of the wholesale cost of other tobacco products,  
8 cigars, pipe tobacco products and smokeless tobacco other than snuff.

9 (2) Notwithstanding the eighty percent (80%) rate in subsection (a) above, in the case of  
10 cigars, the tax shall not exceed fifty cents (\$.50) for each cigar.

11 (3) At the rate of one dollar (\$1.00) per ounce of snuff, and a proportionate tax at the like  
12 rate on all fractional parts of an ounce thereof. Such tax shall be computed based on the net  
13 weight as listed by the manufacturer, provided, however, that any product listed by the  
14 manufacturer as having a net weight of less than 1.2 ounces shall be taxed as if the product has a  
15 net weight of 1.2 ounces.

16 ~~(b) Any dealer having in his or her possession any tobacco, cigars, and pipe tobacco~~  
17 ~~products with respect to the storage or use of which a tax is imposed by this section shall, within~~  
18 ~~five (5) days after coming into possession of the tobacco, cigars, and pipe tobacco in this state,~~  
19 ~~file a return with the tax administrator in a form prescribed by the tax administrator. The return~~  
20 ~~shall be accompanied by a payment of the amount of the tax shown on the form to be due.~~  
21 ~~Records required under this section shall be preserved on the premises described in the relevant~~  
22 ~~license in such a manner as to ensure permanency and accessibility for inspection at reasonable~~  
23 ~~hours by authorized personnel of the administrator.~~

24 ~~(e)~~(b) The proceeds collected are paid into the general fund.

25 **44-20-15. Confiscation of contraband cigarettes, other tobacco products, and other**  
26 **property.**

27 (a) All cigarettes and other tobacco products which are held for sale or distribution within  
28 the borders of this state in violation of the requirements of this chapter are declared to be  
29 contraband goods and may be seized by the tax administrator or his or her agents, or employees,  
30 or by any sheriff or his or her deputy or any police officer when directed by the tax administrator  
31 to do so, without a warrant. All cigarettes contraband goods seized by the state under this chapter  
32 shall be destroyed.

33 (b) All fixtures, equipment, and all other materials and personal property on the premises  
34 of any distributor or dealer who, with the intent to defraud the state, fails to keep or make any



1 record, return, report, or inventory; keeps or makes any false or fraudulent record, return, report,  
2 or inventory required by this chapter; refuses to pay any tax imposed by this chapter; or attempts  
3 in any manner to evade or defeat the requirements of this chapter shall be forfeited to the state.

4 **44-20-33. Sale of contraband ~~unstamped~~ cigarettes or contraband other tobacco**  
5 **products prohibited.**

6 No distributor shall sell, and no other person shall sell, offer for sale, display for sale, or  
7 possess with intent to sell any [contraband other tobacco products or contraband](#) cigarettes, the  
8 packages or boxes ~~containing of~~ which do not bear stamps evidencing the payment of the tax  
9 imposed by this chapter.

10 **44-20-35. Penalties for violations as to unstamped contraband cigarettes or**  
11 **contraband other tobacco products.**

12 (a) Any person who violates any provision of §§ 44-20-33 and 44-20-34 shall be fined  
13 or imprisoned, or both fined and imprisoned, as follows:

14 (1) For a first offense in a twenty-four-month (24) period, fined ~~not more than one~~  
15 ~~thousand dollars (\$1,000), or~~ not more than ~~five (5)~~ [ten \(10\)](#) times the retail value of the ~~cigarettes~~  
16 [contraband cigarettes and/or contraband other tobacco products involved, whichever is greater or](#)  
17 [be imprisoned not more than one \(1\) year, or be both fined and imprisoned;](#)

18 (2) For a second or subsequent offense in a twenty-four-month (24) period, fined ~~not~~  
19 ~~more than five thousand dollars (\$5,000) or~~ not more than twenty-five (25) times the retail value  
20 of the ~~cigarettes~~ [contraband cigarettes and/or contraband other tobacco products involved,](#)  
21 ~~whichever is greater,~~ or be imprisoned not more than three (3) years, or be both fined and  
22 imprisoned.

23 (b) When determining the amount of a fine sought or imposed under this section,  
24 evidence of mitigating factors, including history, severity, and intent shall be considered.

25 **44-20-40.1. Inspections.**

26 (a) The administrator or his or her duly authorized agent shall have authority to enter and  
27 inspect, without a warrant during normal business hours, and with a warrant during nonbusiness  
28 hours, the facilities and records of any manufacturer, importer, distributor or dealer.

29 (b) In any case where the administrator or his or her duly authorized agent, or any police  
30 officer

31 of this state, has knowledge or reasonable grounds to believe that any vehicle is  
32 transporting cigarettes [or other tobacco products](#) in violation of this chapter, the administrator,  
33 such agent, or such police officer, is authorized to stop such vehicle and to inspect the same for  
34 contraband cigarettes [or other tobacco products](#).

1           **44-20-43. Violations as to reports and records.**

2           Any person who fails to submit the reports required in this chapter by the tax  
3 administrator under this chapter, or who makes any incomplete, false, or fraudulent report, or who  
4 refuses to permit the tax administrator or his or her authorized agent to examine any books,  
5 records, papers, or stocks of cigarettes or other tobacco products as provided in this chapter, or  
6 who refuses to supply the tax administrator with any other information which the tax  
7 administrator requests for the reasonable and proper enforcement of the provisions of this chapter,  
8 shall be guilty of a misdemeanor punishable by imprisonment up to one (1) year, or a fine ~~fined~~  
9 of not more than five thousand dollars (\$5,000), or both, for the first offense, and for each  
10 subsequent offense, shall be fined not more than ten thousand dollars (\$10,000), or be imprisoned  
11 not more than five (5) years, or ~~be both fined and imprisoned.~~

12           **44-20-45. Importation of cigarettes and/or other tobacco products with intent to**  
13 **evade tax.**

14           Any person, firm, corporation, club, or association of persons who ~~or that~~ orders any  
15 cigarettes and/or other tobacco products for another or pools orders for cigarettes and/or other  
16 tobacco products from any persons or conspires with others for pooling orders, or receives in this  
17 state any shipment of ~~unstamped contraband~~ cigarettes and/or contraband other tobacco products  
18 on which the tax imposed by this chapter has not been paid, for the purpose and intention of  
19 violating the provisions of this chapter or to avoid payment of the tax imposed in this chapter, is  
20 guilty of a felony and shall be fined one hundred thousand dollars (\$100,000) or five (5) times  
21 the retail value of the cigarettes involved, whichever is greater, or imprisoned not more than  
22 fifteen (15) years, or both.

23           **44-20-51.1. Civil Penalties.**

24           (a) Whoever omits, neglects, or refuses to comply with any duty imposed upon him/her  
25 by this chapter, or does, or causes to be done, any of the things required by this chapter, or does  
26 anything prohibited by this chapter, shall, in addition to any other penalty provided in this  
27 chapter, be liable as follows:

28           (1) For a first offense in a twenty-four month (24) period, a penalty of not more than ~~one~~  
29 ~~thousand dollars (\$1,000), or five (5)~~ ten (10) times the retail value of the cigarettes and/or other  
30 tobacco products involved, ~~whichever is greater, to be recovered, with costs of suit, in a civil~~  
31 ~~action; and~~

32           (2) For a second or subsequent offense in a twenty-four-month (24) period, a penalty of  
33 not more than ~~five thousand dollars (\$5,000), or not more than~~ twenty-five (25) times the retail  
34 value of the cigarettes and/or other tobacco products involved, ~~whichever is greater, to be~~

1 ~~recovered, with costs of suit, in a civil action.~~

2 (b) Whoever fails to pay any tax imposed by this chapter at the time prescribed by law or  
3 regulations, shall, in addition to any other penalty provided in this chapter, be liable for a penalty  
4 of one thousand dollars (\$1,000) or not more than five (5) times the tax due but unpaid,  
5 whichever is greater.

6 (c) When determining the amount of a penalty sought or imposed under this section,  
7 evidence of mitigating or aggravating factors, including history, severity, and intent, shall be  
8 considered.

9 SECTION 9. This article shall take effect as of July 1, 2017, except for sections 2 and 3  
10 which take effect as of August 1, 2017.

## 11 ARTICLE 9

### 12 RELATING REMOTE SELLERS SALES TAX COLLECTION

13 SECTION 1. Title 44 of the general laws entitled "Taxation" is hereby amended by  
14 adding thereto the following chapter:

#### 15 CHAPTER 70

#### 16 REMOTE SELLER SALES TAX COLLECTION ACT

##### 17 **44-70-1. Legislative findings.**

18 The general assembly finds and declares as follows:

19 (1) The general assembly recognizes that the commerce clause prohibits states from  
20 imposing an undue burden on interstate commerce.

21 (2) The general assembly finds that, due to the ready availability of sales and use tax  
22 collection software and Rhode Island's status as a signatory to the Streamlined Sales and Use Tax  
23 agreement under which there is an existing compliance infrastructure in place to facilitate the  
24 collection and remittance of sales tax by remote sellers, it is no longer an undue burden for  
25 remote sellers to accurately compute, collect and remit their sales and use tax obligations to  
26 Rhode Island.

27 (3) The general assembly further finds that there has been an exponential expansion of  
28 online commerce and related technology, and given that technology, it would not be an undue  
29 burden for remote sellers to collect and remit sales and use tax.

30 (4) The general assembly further finds the sales and use tax system established under  
31 Rhode Island law does not pose an undue burden on remote sellers and provides sufficient  
32 simplification to warrant the collection and remittance of sales and use taxes that are due and  
33 owing to Rhode Island by remote sellers.

##### 34 **44-70-2. Definitions.**