WEST VIRGINIA CODE: §16-9E-1

§16-9E-1. Definitions.

For purposes of this article:

(1) "Consumer" means an individual who does not hold a business registration certificate in this state for the business of selling tobacco products as a wholesale or retail dealer.

(2) "Delivery sale" means any sale of a tobacco product to a consumer in this state where either: (A) The consumer submits the order for the sale by means of a telephone or other method of voice transmission, the mail, or the internet or other online service, or the seller is otherwise not in the physical presence of the buyer when the request for purchase or order is made; or (B) the tobacco product is delivered to the buyer by common carrier, private delivery service, or other method of remote delivery, or the seller is not in the physical presence of the buyer when the buyer obtains possession of the cigarettes or smokeless tobacco: *Provided*, That a sale of a tobacco product not for personal consumption to a person who holds a business registration certificate as a wholesale dealer or a retail dealer is not a delivery sale.

(3) "Delivery service" means any person who is engaged in the commercial delivery of letters, packages, or other containers.

(4) "Department" means the State Tax Department.

(5) "Electronic smoking device" means any device that can be used to deliver any heated, aerosolized, or vaporized solution to the person inhaling from the device, including, but not limited to, any e-cigarette, e-cigar, e-pipe, vape pen, or e-hookah. Electronic smoking device includes any component part, or accessory of the device, whether or not sold separately, and includes any solution intended to be heated, aerosolized, or vaporized during the use of the device, whether or not the solution contains nicotine. Electronic smoking device does not include drugs, devices, or combination products approved by the United States Food, Drug, and Cosmetic Act.

(6) "Legal minimum purchase age" state shall have the same meaning as provided in §16-9A-1 *et seq*. of this code.

(7) "Mails" or "mailing" means the shipment of any tobacco product through the United States Postal Service.

(8) "Tobacco product" means any product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether absorbed, inhaled, or ingested by any other means, including, but not limited to, cigarettes, cigarillos, little cigars, snuff, snus, chewing tobacco, or other common tobacco-containing products. A "tobacco product" also

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includes electronic smoking devices and any accessory of a tobacco product or electronic smoking device, whether or not any of these contain tobacco or nicotine, including, but not limited to, filters, rolling papers, blunt or hemp wraps, and pipes. A “tobacco product" does not include drugs, devices, or combination products that are regulated by the United States Food and Drug Administration under Chapter V of the Food, Drug and Cosmetic Act, nor does “tobacco product” include cigars as defined in Title 26 U.S.C. §5702.

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