

# ASSEMBLY, No. 4391

## STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED SEPTEMBER 13, 2018

**Sponsored by:**

**Assemblyman JOHN J. BURZICHELLI**

**District 3 (Cumberland, Gloucester and Salem)**

**SYNOPSIS**

Imposes tax upon retail sales of liquid nicotine; repeals floor tax on liquid nicotine.

**CURRENT VERSION OF TEXT**

As introduced.



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2

1 AN ACT concerning the taxation of liquid nicotine, amending  
2 P.L.1990, c.39 and P.L.2018, c.50, and repealing section 6 of  
3 P.L.2018, c.50.

4  
5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7  
8 1. Section 1 of P.L.1990, c.39 (C.54:40B-1) is amended to read  
9 as follows:

10 1. Sections 1 through 14 of P.L.1990, c.39 (C.54:40B-1 et seq.)  
11 shall be known and may be cited as the "Tobacco and Nicotine  
12 Products Excise Tax and Wholesale Sales and Use Tax Act."  
13 (cf: P.L.2018, c.50, s.2)

14  
15 2. Section 5 of P.L.2018, c.50 (C.54:40B-3.2) is amended to  
16 read as follows:

17 5. **[a.]** There is imposed a tax upon the sale **[**, use, or  
18 distribution**]** of all products containing liquid nicotine within this  
19 State by **[**a distributor or wholesaler to**]** a retail dealer **[or]** to a  
20 consumer at the rate of **[\$0.10 per fluid milliliter on the volume of**  
21 the liquid nicotine as listed by the manufacturer, and a  
22 proportionate rate on all fractional parts of a fluid milliliter of  
23 volume of liquid nicotine as listed by the manufacturer**]** 3.5 percent  
24 of the retail sale price listed by the retail dealer for the product  
25 containing liquid nicotine.

26 **[**b. Unless liquid nicotine has already been or will be subject to  
27 the tax imposed in subsection a. of this section, if a distributor or  
28 wholesaler uses the liquid nicotine within the State, there is  
29 imposed upon the distributor or wholesaler a compensating use tax  
30 of \$0.10 per fluid milliliter of the volume of liquid nicotine as listed  
31 by the manufacturer, and a proportionate rate on all fractional parts  
32 of a fluid milliliter of the volume of liquid nicotine as listed by the  
33 manufacturer.

34 c. Unless a tax is due pursuant to subsection b. of this section,  
35 if a distributor or wholesaler has not paid the tax imposed in  
36 subsection a. of this section upon a sale that is subject to the tax  
37 imposed in that subsection a., there is imposed upon the retail  
38 dealer or consumer chargeable for the sale a compensating use tax  
39 of \$0.10 per fluid milliliter on the volume of the liquid nicotine as  
40 listed by the manufacturer, and a proportionate rate on all fractional  
41 parts of a fluid milliliter of the volume of liquid nicotine as listed  
42 by the manufacturer, which shall be collected in the manner  
43 provided in subsection b. of section 5 of P.L.1990, c.39 (C.54:40B-  
44 5).**]**

45 (cf: P.L.2018, c.50, s.5)

**EXPLANATION** – Matter enclosed in bold-faced brackets **[ thus ]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

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1       3. (New section) Within 90 days of the effective date of this  
2 act, the Director of the Division of Taxation shall refund the amount  
3 of any tax paid by a distributor, wholesaler, or retail dealer on  
4 liquid nicotine in the possession of the distributor, wholesaler, or  
5 retail dealer pursuant to section 6 of P.L.2018, c.50. The Director  
6 of the Division of Taxation shall not refund any tax paid pursuant to  
7 section 5 of P.L.2018, c.50 (C.54:40B-3.2) prior to the effective  
8 date of this act.

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10       4. Section 6 of P.L.2018, c.50 is repealed.

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12       5. This act shall take effect immediately.

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**STATEMENT**

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17       This bill imposes a 3.5 percent tax on the sale of all products  
18 containing liquid nicotine within this State by a retail dealer to a  
19 consumer. The bill is intended to replace the \$0.10 per fluid  
20 milliliter tax upon liquid nicotine, which was approved by the  
21 Governor on July 1, 2018 as P.L.2018, c.50. The bill also repeals  
22 the temporary floor tax on liquid nicotine in the possession of the  
23 distributor, wholesaler, or retail dealer, which P.L.2018, c.50  
24 imposed. The bill directs the Director of the Division of Taxation  
25 to refund the amount of any tax paid by a distributor, wholesaler, or  
26 retail dealer pursuant to section 6 of P.L.2018, c.50 within 90 days  
27 of the bill's effective date.