

SENATE, No. 1184

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED JANUARY 25, 2018

Sponsored by:

Senator JOSEPH F. VITALE

District 19 (Middlesex)

Senator LORETTA WEINBERG

District 37 (Bergen)

SYNOPSIS

Increases wholesale sales and use tax rate on tobacco products, imposes tax on electronic cigarettes and similar nicotine delivery products, changes tax base, and requires licenses to conduct business in tobacco products.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/26/2019)

1 **AN ACT** increasing the rate of tax imposed on tobacco products,
2 taxing certain sales of electronic cigarettes and similar nicotine
3 delivery products, and concerning the licensing and taxation of
4 tobacco products, amending and supplementing P.L.1990, c.39,
5 amending the title thereof and amending various parts of the
6 statutory law.

7
8 **BE IT ENACTED** by the Senate and General Assembly of the State
9 of New Jersey:

10
11 1. The title of P.L.1990, c.39 (C.54:40B-1 et seq.) is amended
12 to read as follows:

13 **AN ACT** concerning the taxation of cigarettes, electronic cigarettes
14 and other tobacco products, supplementing Title 54 of the
15 Revised Statutes, amending P.L.1982, c.40, amending and
16 supplementing P.L.1948, c.65 and repealing section 4 of
17 P.L.1982, c.40.

18 (cf: P.L.1990, c.39, title)

19
20 2. Section 1 of P.L.1990, c.39 (C.54:40B-1) is amended to read
21 as follows:

22 1. Sections 1 through 14 of this act shall be known and may be
23 cited as the "Tobacco Products and Nicotine Delivery Products
24 Wholesale Sales and Use Tax Act."

25 (cf: P.L.1990, c.39, s.1)

26
27 3. Section 2 of P.L.1990, c.39 (C.54:40B-2) is amended to read
28 as follows:

29 2. As used in sections 2 through 14 and section 20 of this act:

30 "Cigar" means any roll of tobacco for smoking that is: wrapped
31 in leaf tobacco, or any other substance or material containing
32 tobacco; offered to, or purchased by, consumers with or without a
33 mouthpiece, tip, or filter for smoking; and, sold by the distributor or
34 wholesaler to the retail dealer or consumer for a sales price of more
35 than \$2.00 per cigar. A cigar shall not include a cigarillo or little
36 cigar;

37 "Cigarillo" means any roll of tobacco for smoking that is:
38 wrapped in leaf tobacco, or any other substance or material
39 containing tobacco; offered to, or purchased by, consumers with or
40 without a mouthpiece, tip, or filter for smoking; and, sold by the
41 distributor or wholesaler to the retail dealer or consumer for a sales
42 price of not more than \$2.00 per cigarillo. A cigarillo shall not
43 include a cigar or little cigar;

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.

1 "Consumer" means a person except a distributor, manufacturer or
2 wholesaler who acquires a tobacco product for consumption,
3 storage or use in this State;

4 "Director" means the Director of the Division of Taxation in the
5 Department of the Treasury;

6 "Distributor" means
7 a person engaged in the business of selling tobacco products in
8 this State who brings, or causes to be brought into this State from
9 without the State a tobacco product for sale within this State,
10 a person who makes or manufactures tobacco products in this
11 State for sale in the State,
12 a person engaged in the business of selling tobacco products
13 without this State who ships or transports tobacco products to a
14 person in this State to be sold to a retail dealer, or
15 a person who receives tobacco products [on which the tax has
16 not or will not be] without receiving proof that the tax has been or
17 will be paid by another distributor;

18 "Dry snuff" means any finely cut, ground or powdered smokeless
19 tobacco that is intended to be sniffed through the nasal cavity, but
20 does not include moist snuff or a single-dose smokeless tobacco
21 product;

22 "Little cigar" means any roll of tobacco for smoking that: is
23 wrapped in leaf tobacco, or any other substance or material
24 containing tobacco; is offered to, or purchased by, consumers with
25 or without a mouthpiece, tip, or filter for smoking; and, weighs not
26 more than three pounds per 1,000 units. A little cigar shall not
27 include a cigar or cigarillo;

28 "Electronic cigarette" means a device that can deliver nicotine,
29 nicotine and flavor, or other chemicals or substances to a person
30 inhaling from the device that electronically or by other means
31 vaporizes a liquid solution into an aerosol mist or vapor, simulating
32 the act of tobacco smoking. An electronic cigarette includes but is
33 not limited to any components, parts or accessories thereof which
34 contain nicotine, such as cartridges and vials, and includes any
35 delivery device components, whether or not sold separately;

36 "Manufacturer" means a person, wherever resident or located,
37 who manufactures or produces, or causes to be manufactured or
38 produced, a tobacco product and sells, uses, stores or distributes the
39 product regardless of whether it is intended for sale, use or
40 distribution within or without this State;

41 "Moist snuff" means any finely cut, ground or powdered
42 smokeless tobacco that is intended to be placed or dipped in the oral
43 cavity, but does not include dry snuff or a single-dose smokeless
44 tobacco product;

45 "Person" means an individual, firm, corporation, copartnership,
46 joint venture, association, receiver, trustee, guardian, executor,
47 administrator, or any other person acting in a fiduciary capacity, or
48 an estate, trust or group or combination acting as a unit, the State
49 Government and any political subdivision thereof, and the plural as

1 well as the singular, unless the intention to give a more limited
2 meaning is disclosed by the context;

3 “Pipe tobacco” means any tobacco that, because of its
4 appearance, type, packaging, or labeling, is suitable for use and
5 likely to be offered to, or purchased by, consumers as tobacco to be
6 smoked in a pipe;

7 "Place of business" means a place where a tobacco product is
8 sold or where a tobacco product is brought or kept for the purpose
9 of sale or consumption, including so far as may be applicable a
10 vessel, vehicle, airplane, train or vending machine;

11 "Receipt" means the sale price of a tobacco product valued in
12 money, whether received in money or otherwise, including early
13 payment discounts, and without any deduction or exclusion for
14 expenses or costs whatsoever;

15 "Retail dealer" means a person who is engaged in this State in
16 the business of selling any tobacco product at retail. A person
17 placing a tobacco product vending machine at, or on any premises
18 shall be deemed to be a retail dealer for each vending machine;

19 "Sale" means any sale, transfer, exchange, barter, or gift, in any
20 manner or by any means whatsoever;

21 “Single-dose smokeless tobacco product” means any finely cut,
22 ground, or powdered tobacco or product derived from tobacco that
23 is intended for consumption without being combusted and is
24 suitable for use and likely to be offered to, or purchased by,
25 consumers as uniform, individual dose servings or other discrete
26 single-use units. A single-dose smokeless tobacco product includes
27 snus, lozenges, tablets, sticks, and strips, but does not include dry
28 snuff or moist snuff;

29 “Smoking tobacco” means any tobacco that, because of its
30 appearance, type, packaging, or labeling, is suitable for use and
31 likely to be offered to, or purchased by, consumers as tobacco for
32 making cigarettes or cigars, or for use as wrappers thereof;

33 "Tobacco product" means any product containing, made, or
34 derived from any tobacco, nicotine or other chemicals or substances
35 for [personal] human consumption, or placement in the oral or
36 nasal cavity or otherwise into the human body, whether chewed,
37 smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested
38 by other means, including, but not limited to, cigars, little cigars,
39 cigarillos, chewing tobacco, pipe tobacco, smoking tobacco and
40 their substitutes, [and] dry and moist snuff, single-dose smokeless
41 tobacco, and electronic cigarette, but does not include cigarette as
42 defined in section 102 of the "Cigarette Tax Act," P.L.1948, c.65
43 (C.54:40A-1 et seq.). "Tobacco product" does not include any
44 product that is approved by the United State Food and Drug
45 Administration for tobacco cessation, nicotine cessation, or other
46 therapeutic purpose if that product is marketed and sold solely for
47 that approved purpose;

1 "Treasurer" means the State Treasurer;

2 "Use" means the exercise of any right or power incidental to the
3 ownership of a tobacco product, including a sale at retail;

4 **["Wholesale price" means the actual price for which a**
5 **manufacturer sells tobacco products to a distributor;]** and

6 "Wholesaler" means a person, wherever resident or located, other
7 than a distributor as defined herein, who:

8 a. purchases tobacco products from any other person who
9 purchases from the manufacturer and who acquires tobacco
10 products solely for the purpose of bona fide resale to retail dealers
11 or to other persons for the purposes of resale only; or

12 b. services retail outlets by the maintenance of an established
13 place of business for the purchase of tobacco products including,
14 but not limited to, the maintenance of warehousing facilities for the
15 storage and distribution of tobacco products.

16 (cf: P.L.2006, c.37, s.4)

17

18 4. Section 3 of P.L.1990, c.39 (C.54:40B-3) is amended to read
19 as follows:

20 3. a. There is imposed a tax of **[30%]** 68% upon the
21 **[wholesale price upon the]** receipt from every sale, use or
22 distribution of a tobacco product **[within]** by a distributor or a
23 wholesaler to a retail dealer or consumer in this State, except that if
24 the product is:

25 moist snuff, the tax shall be imposed as provided in section 3 of
26 P.L.2006, c.37 (C.54:40B-3.1),

27 an electronic cigarette, the tax shall be imposed as provided in
28 section 6 of P.L. , c. (C.) (pending before the Legislature as
29 this bill),

30 a cigar, the tax shall be imposed as provided in section 7 of
31 P.L. , c. (C.) (pending before the Legislature as this bill),

32 a cigarillo, the tax shall be imposed as provided in section 8 of
33 P.L. , c. (C.) (pending before the Legislature as this bill),

34 a little cigar, the tax shall be imposed as provided in section 9 of
35 P.L. , c. (C.) (pending before the Legislature as this bill),

36 a single-dose smokeless tobacco product, the tax shall be
37 imposed as provided in section 10 of P.L. , c. (C.) (pending
38 before the Legislature as this bill), and

39 pipe tobacco or smoking tobacco, the tax shall be imposed as
40 provided in section 11 of P.L. , c. (C.) (pending before the
41 Legislature as this bill).

42 b. Unless a tobacco product has already been or will be subject
43 to the wholesale sales tax imposed in subsection a. of this section, if
44 a distributor or wholesaler uses a tobacco product within this State,
45 there is imposed upon the distributor or wholesaler a compensating
46 use tax of **[30%]** 68% measured by the **[sales price]** receipt from a
47 sale of a similar tobacco product to a distributor, except that if the
48 product is:

1 moist snuff, the tax shall be imposed as provided in section 3 of
2 P.L.2006, c.37 (C.54:40B-3.1),
3 an electronic cigarette, the tax shall be imposed as provided in
4 section 6 of P.L. , c. (C.) (pending before the Legislature as this
5 bill),
6 a cigar, the tax shall be imposed as provided in section 7 of
7 P.L. , c. (C.) (pending before the Legislature as this bill),
8 a cigarillo, the tax shall be imposed as provided in section 8 of
9 P.L. , c. (C.) (pending before the Legislature as this bill),
10 a little cigar, the tax shall be imposed as provided in section 9 of
11 P.L. , c. (C.) (pending before the Legislature as this bill),
12 a single-dose smokeless tobacco product, the tax shall be
13 imposed as provided in section 10 of P.L. , c. (C.) (pending
14 before the Legislature as this bill), and
15 pipe tobacco or smoking tobacco, the tax shall be imposed as
16 provided in section 11 of P.L. , c. (C.) (pending before the
17 Legislature as this bill).
18 c. Unless a wholesale use tax is due pursuant to subsection b.
19 of this section, if a distributor or wholesaler has not paid the
20 wholesale sales tax imposed in subsection a. of this section upon a
21 sale that is subject to the wholesale sales tax imposed in that
22 subsection a., there is imposed upon the retail dealer or consumer
23 chargeable for the sale a compensating use tax of **【30%】** 68% of the
24 price paid or charged for the tobacco product, except that if the
25 product is:
26 moist snuff, the tax shall be imposed as provided in section 3 of
27 P.L.2006, c.37 (C.54:40B-3.1),
28 an electronic cigarette, the tax shall be imposed as provided in
29 section 6 of P.L. , c. (C.) (pending before the Legislature as this
30 bill),
31 a cigar, the tax shall be imposed as provided in section 7 of
32 P.L. , c. (C.) (pending before the Legislature as this bill),
33 a cigarillo, the tax shall be imposed as provided in section 8 of
34 P.L. , c. (C.) (pending before the Legislature as this bill),
35 a little cigar, the tax shall be imposed as provided in section 9 of
36 P.L. , c. (C.) (pending before the Legislature as this bill),
37 a single-dose smokeless tobacco product, the tax shall be
38 imposed as provided in section 10 of P.L. , c. (C.) (pending
39 before the Legislature as this bill), and
40 pipe tobacco or smoking tobacco, the tax shall be imposed as
41 provided in section 11 of P.L. , c. (C.) (pending before the
42 Legislature as this bill),
43 which shall be collected in the manner provided in subsection b.
44 of section 5 of this act.
45 (cf: P.L.2006, c.37, s.5)

1 5. Section 3 of P.L.2006, c.37 (C.54:40B-3.1) is amended to
2 read as follows:

3 3. a. There is imposed a tax upon the sale, use or distribution
4 of moist snuff within this State by a distributor or wholesaler to a
5 retail dealer or consumer at the rate of ~~【\$0.75】~~ \$2.25 per ounce on
6 the net weight, as listed by the manufacturer, of the moist snuff, and
7 a proportionate rate on all fractional parts of an ounce of the net
8 weight of moist snuff.

9 b. Unless a moist snuff product has already been or will be
10 subject to the wholesale sales tax imposed in subsection a. of this
11 section, if a distributor or wholesaler uses the moist snuff within
12 this State, there is imposed upon the distributor or wholesaler a
13 compensating use tax of ~~【\$0.75】~~ \$2.25 per ounce on the net weight,
14 as listed by the manufacturer, of the moist snuff, and a
15 proportionate rate on all fractional parts of an ounce of the net
16 weight of moist snuff.

17 c. Unless a wholesale use tax is due pursuant to subsection b.
18 of this section, if a distributor or wholesaler has not paid the
19 wholesale sales tax imposed in subsection a. of this section upon a
20 sale that is subject to the wholesale sales tax imposed in that
21 subsection a., there is imposed upon the retail dealer or consumer
22 chargeable for the sale a compensating use tax of ~~【\$0.75】~~ \$2.25 per
23 ounce on the net weight, as listed by the manufacturer, of the moist
24 snuff, and a proportionate rate on all fractional parts of an ounce of
25 the net weight of moist snuff, which shall be collected in the
26 manner provided in subsection b. of section 5 of P.L.1990, c.39
27 (C.54:40B-5).

28 (cf: P.L.2006, c.37, s.3)

29

30 6. (New section) a. There is imposed a tax of 75% upon the
31 receipt from every sale, use or distribution of an electronic cigarette
32 by a distributor or a wholesaler to a retail dealer or consumer in this
33 State.

34 b. Unless an electronic cigarette has already been or will be
35 subject to the wholesale sales tax imposed in subsection a. of this
36 section, if a distributor or wholesaler uses an electronic cigarette
37 within this State, there is imposed upon the distributor or
38 wholesaler a compensating use tax of 75% measured by the receipt
39 from a sale of a similar electronic cigarette by a distributor to a
40 retail dealer.

41 c. Unless a wholesale use tax is due pursuant to subsection b.
42 of this section, if a distributor or wholesaler has not paid the
43 wholesale sales tax imposed in subsection a. of this section upon the
44 receipt from a sale that is subject to the wholesale sales tax imposed
45 in that subsection a., there is imposed upon the retail dealer or
46 consumer chargeable for the sale a compensating use tax of 75% of
47 the price paid or charged for the electronic cigarette, which shall be
48 collected in the manner provided in subsection b. of section 5 of
49 P.L.1990, c.39 (C.54:40B-5).

1 7. (New section) a. There is imposed a tax upon the sale, use
2 or distribution of a cigar within this State by a distributor or a
3 wholesaler to a retail dealer or consumer at the rate of \$2.70 for
4 each cigar.

5 b. Unless a cigar has already been or will be subject to the
6 wholesale sales tax imposed in subsection a. of this section, if a
7 distributor or wholesaler uses a cigar within this State, there is
8 imposed upon the distributor or wholesaler a compensating use tax
9 at the rate of \$2.70 for each cigar.

10 c. Unless a wholesale use tax is due pursuant to subsection b.
11 of this section, if a distributor or wholesaler has not paid the
12 wholesale sales tax imposed in subsection a. of this section upon a
13 sale that is subject to the wholesale sales tax imposed in that
14 subsection a., there is imposed upon the retail dealer or consumer
15 chargeable for the sale a compensating use tax at the rate of \$2.70
16 for each cigar, which shall be collected in the manner provided in
17 subsection b. of section 5 of P.L.1990, c.39 (C.54:40B-5).

18

19 8. (New section) a. There is imposed a tax upon the sale, use
20 or distribution of a cigarillo within this State by a distributor or a
21 wholesaler to a retail dealer or consumer at the rate of \$0.54 for
22 each cigarillo.

23 b. Unless a cigarillo has already been or will be subject to the
24 wholesale sales tax imposed in subsection a. of this section, if a
25 distributor or wholesaler uses a cigarillo within this State, there is
26 imposed upon the distributor or wholesaler a compensating use tax
27 at the rate of \$0.54 for each cigarillo.

28 c. Unless a wholesale use tax is due pursuant to subsection b.
29 of this section, if a distributor or wholesaler has not paid the
30 wholesale sales tax imposed in subsection a. of this section upon a
31 sale that is subject to the wholesale sales tax imposed in that
32 subsection a., there is imposed upon the retail dealer or consumer
33 chargeable for the sale a compensating use tax at the rate of \$0.54
34 for each cigarillo, which shall be collected in the manner provided
35 in subsection b. of section 5 of P.L.1990, c.39 (C.54:40B-5).

36

37 9. (New section) a. There is imposed a tax upon the sale, use
38 or distribution of a little cigar within this State by a distributor or a
39 wholesaler to a retail dealer or consumer at the rate of \$0.135 for
40 each little cigar.

41 b. Unless a little cigar has already been or will be subject to the
42 wholesale sales tax imposed in subsection a. of this section, if a
43 distributor or wholesaler uses a little cigar within this State, there is
44 imposed upon the distributor or wholesaler a compensating use tax
45 at the rate of \$0.135 for each little cigar.

46 c. Unless a wholesale use tax is due pursuant to subsection b.
47 of this section, if a distributor or wholesaler has not paid the
48 wholesale sales tax imposed in subsection a. of this section upon a
49 sale that is subject to the wholesale sales tax imposed in that

1 subsection a., there is imposed upon the retail dealer or consumer
2 chargeable for the sale a compensating use tax at the rate of \$0.135
3 for each little cigar, which shall be collected in the manner provided
4 in subsection b. of section 5 of P.L.1990, c.39 (C.54:40B-5).

5
6 10. (New section) a. There is imposed a tax upon the sale, use
7 or distribution of a single-dose smokeless tobacco product within
8 this State by a distributor or a wholesaler to a retail dealer or
9 consumer at the rate of \$0.135 for each single-dose smokeless
10 tobacco product.

11 b. Unless a single-dose smokeless tobacco product has already
12 been or will be subject to the wholesale sales tax imposed in
13 subsection a. of this section, if a distributor or wholesaler uses a
14 single-dose smokeless tobacco product within this State, there is
15 imposed upon the distributor or wholesaler a compensating use tax
16 at the rate of \$0.135 for each single-dose smokeless tobacco
17 product.

18 c. Unless a wholesale use tax is due pursuant to subsection b.
19 of this section, if a distributor or wholesaler has not paid the
20 wholesale sales tax imposed in subsection a. of this section upon a
21 sale that is subject to the wholesale sales tax imposed in that
22 subsection a., there is imposed upon the retail dealer or consumer
23 chargeable for the sale a compensating use tax at the rate of \$0.135
24 for each single-dose smokeless tobacco product, which shall be
25 collected in the manner provided in subsection b. of section 5 of
26 P.L.1990, c.39 (C.54:40B-5).

27
28 11. (New section) a. There is imposed a tax upon the sale, use
29 or distribution of pipe tobacco or smoking tobacco within this State
30 by a distributor or a wholesaler to a retail dealer or consumer at the
31 rate of \$4.15 per ounce on the net weight, as listed by the
32 manufacturer, of the pipe tobacco or smoking tobacco, and a
33 proportionate rate on all fractional parts of an ounce of the net
34 weight of pipe tobacco or smoking tobacco.

35 b. Unless a pipe tobacco or smoking tobacco product has
36 already been or will be subject to the wholesale sales tax imposed in
37 subsection a. of this section, if a distributor or wholesaler uses the
38 pipe tobacco or smoking tobacco within this State, there is imposed
39 upon the distributor or wholesaler a compensating use tax at the rate
40 of \$4.15 per ounce on the net weight, as listed by the manufacturer,
41 of the pipe tobacco or smoking tobacco, and a proportionate rate on
42 all fractional parts of an ounce of the net weight of pipe tobacco or
43 smoking tobacco.

44 c. Unless a wholesale use tax is due pursuant to subsection b.
45 of this section, if a distributor or wholesaler has not paid the
46 wholesale sales tax imposed in subsection a. of this section upon a
47 sale that is subject to the wholesale sales tax imposed in that
48 subsection a., there is imposed upon the retail dealer or consumer
49 chargeable for the sale a compensating use tax at the rate of \$4.15

1 per ounce on the net weight, as listed by the manufacturer, of the
2 pipe tobacco or smoking tobacco, which shall be collected in the
3 manner provided in subsection b. of section 5 of P.L.1990, c.39
4 (C.54:40B-5).

5
6 12. Section 4 of P.L.1990, c.39 (C.54:40B-4) is amended to read
7 as follows:

8 4. Every distributor or wholesaler shall be liable to pay the tax
9 when it has sold or otherwise disposed of the tobacco product to the
10 retail dealer or consumer. The retail dealer or consumer shall be
11 given a true copy of an invoice, receipt or other statement or
12 memorandum [stating that] of the charge made for the sale or other
13 disposition and the tax that has been or will be paid by the
14 distributor or wholesaler, which amount of tax shall be stated and
15 shown separately on the document given to the retail dealer or
16 consumer.

17 The director may provide by regulation that the tax upon tobacco
18 products, sold to a retail dealer or consumer who pays the
19 distributor or wholesaler in installments, may be paid and the return
20 filed on the amount of each installment.

21 (cf: P.L.2001, c.448, s.3)

22
23 13. Section 5 of P.L.1990, c.39 (C.54:40B-5) is amended to read
24 as follows:

25 5. a. Every distributor or wholesaler required to pay the tax
26 imposed by this act shall be personally liable for the tax imposed
27 under this act.

28 b. If a distributor or wholesaler fails to pay the tax imposed by
29 this act when required to pay the same, then in addition to all other
30 rights, obligations and remedies provided, the compensating use tax
31 imposed in either subsection c. of section 3 of P.L.1990, c.39
32 (C.54:40B-3), subsection c. of section 3 of P.L.2006, c.37
33 (C.54:40B-3.1), subsection c. of section 6 of P.L. , c. (C.)
34 (pending before the Legislature as this bill), subsection c. of section
35 7 of P.L. , c. (C.) (pending before the Legislature as this
36 bill), subsection c. of section 8 of P.L. , c. (C.) (pending
37 before the Legislature as this bill), subsection c. of section 9 of
38 P.L. , c. (C.) (pending before the Legislature as this bill),
39 subsection c. of section 10 of P.L. , c. (C.) (pending before
40 the Legislature as this bill), or subsection c. of section 11 of
41 P.L. , c. (C.) (pending before the Legislature as this bill), as
42 the case may be, shall be payable by the retail dealer or consumer
43 directly to the director, and it shall be the duty of the retail dealer or
44 consumer to file a return, on a form prescribed by the director, with
45 the director and to pay the tax to the director within 20 days of the
46 date the tax was required to be paid or at other times as specified by
47 the director.

48 (cf: P.L.2001, c.448, s.4)

1 14. Section 6 of P.L.1990, c.39 (C.54:40B-6) is amended to read
2 as follows:

3 6. a. [Within 15 days from the effective date of this act, or in]
4 In the case of manufacturers, distributors, [or] wholesalers or retail
5 dealers commencing business or opening new places of business
6 [after that] on or after the effective date of P.L. , c. (pending
7 before the Legislature as this bill), within three days after the
8 commencement or opening, every distributor or wholesaler required
9 to pay the taxes imposed by this act and every manufacturer or
10 retail dealer who sells tobacco products shall file with the director
11 [a certificate of registration] an application for the applicable
12 license in a form prescribed by the director [unless] which shall be
13 in addition to a certificate of authority that has been previously
14 issued to any distributor or wholesaler. The director shall issue,
15 without charge, to each [registrant] manufacturer, distributor, and
16 wholesaler a certificate of authority requiring the [registrant]
17 licensee to pay the tax and a duplicate thereof for each additional
18 place of business of the [registrant] licensee. Each certificate or
19 duplicate shall state the place of business to which it is applicable.
20 The certificate of authority shall be prominently displayed in the
21 place of business of the [registrant] licensee. Certificates shall be
22 nonassignable and nontransferable and shall be surrendered to the
23 director immediately upon the [registrant's] licensee's ceasing to do
24 business at the place named.

25 b. On and after the effective date of P.L. , c. (pending
26 before the Legislature as this bill), no person who is a manufacturer,
27 distributor, wholesaler or retail dealer shall engage in that business
28 without having first obtained the appropriate license for that
29 purpose as prescribed by P.L.1990, c.39 (C.54:40B-1 et seq.). All
30 licenses shall be issued by the director, who shall make rules and
31 regulations respecting applications therefor and issuance thereof,
32 which may include, in the discretion of the director, requirements
33 based upon the provisions of subsections a. through f. of section
34 202 of P.L.1948, c.65 (C.54:40A-4).

35 c. Each license shall lapse on March 31 of the period for which
36 it is issued, and each license shall be continued annually upon the
37 conditions that the licensee shall have paid the required fee for
38 continuance thereof and complied with all the provisions of
39 P.L.1990, c.39 (C.54:40B-1 et seq.) and the rules and regulations of
40 the director made pursuant thereto.

41 d. For each license issued to a manufacturer, and for each
42 continuance thereof, there shall be paid to the director a fee of
43 \$350.

44 For each license issued to a distributor, and for each continuance
45 thereof, there shall be paid to the director a fee of \$350. If a
46 distributor sells or intends to sell tobacco products at two or more
47 places of business, whether established or temporary, a separate
48 license shall be required for each place of business. Each license,

1 or certificate thereof, or other evidence of license, shall be exhibited
2 in the place of business for which it is issued and in the manner as
3 may be prescribed by the director. The director shall require each
4 licensed distributor to file with the director a bond in an amount not
5 less than \$10,000 to guarantee the proper performance of the
6 distributor's duties and the discharge of the distributor's liabilities
7 under this act. The bond shall be executed by the licensed
8 distributor as principal, and by a corporation approved by the
9 director and duly authorized to engage in business as a surety
10 company in the State of New Jersey, as surety. The bond shall run
11 concurrently with the distributor's license.

12 For each license issued to a wholesaler, and for each continuance
13 thereof, there shall be paid to the director a fee of \$250. If a
14 wholesaler sells or intends to sell tobacco products at two or more
15 places of business, whether established or temporary, a separate
16 license shall be required for each place of business. Each license, or
17 certificate thereof, or other evidence of license, shall be exhibited in
18 the place of business for which it is issued and in the manner as
19 may be prescribed by the director.

20 For each license issued to a retail dealer, and for each
21 continuance thereof, there shall be paid to the director a fee of \$50.
22 Of the license fee \$40 shall be credited to the special projects and
23 development fund in the Department of Health established pursuant
24 to section 7 of P.L.1966, c.36 (C.26:2F-7) for the purposes
25 specified therein. The director shall determine and certify to the
26 State Treasurer on a monthly basis the amount of revenues collected
27 by the director which are to be credited to the special projects and
28 development fund in the Department of Health.

29 If a retail dealer sells or intends to sell tobacco products at two or
30 more places of business, whether established or temporary, or
31 whether in the same building or not, a separate license shall be
32 required for each place of business. Each license, or certificate
33 thereof, or other evidence of license, shall be exhibited in the place
34 of business for which it is issued and in the manner as may be
35 prescribed by the director.

36 A person licensed only as a distributor or as a manufacturer or as
37 a wholesaler or as a retail dealer shall not operate in any other
38 capacity except under that for which that person is licensed herein,
39 unless the appropriate license or licenses therefor are first secured.

40 No license shall be issued to a person except upon the payment
41 of the full fee therefor, any statute or exemption to the contrary
42 notwithstanding. No license shall be assignable or transferable,
43 except as hereinafter provided, but in the case of death, bankruptcy,
44 receivership, or incompetency of the licensee, or if for any other
45 reason whatsoever the business of the licensee shall devolve upon
46 another by operation of law, the director may, in the director's
47 discretion, extend that license for a limited time to the executor,
48 administrator, trustee, receiver, or person upon whom the same has
49 devolved. A purchaser or assignee of a licensed wholesaler or

1 licensed distributor, or an other person upon whom the business of a
2 licensed wholesaler or licensed distributor shall devolve by
3 operation of law, shall upon application to the director, be entitled
4 to an assignment or transfer of the wholesale or distributor license
5 for the balance of the existing license period upon payment of a
6 transfer fee of \$5 and subject to that person's qualification to be a
7 licensed wholesaler or licensed distributor under the provisions of
8 this act. No refund of the license fee shall be paid to a person upon
9 the surrender or revocation of any license except a license fee paid
10 or collected in error. But, upon payment of a \$5 fee, there may be
11 obtained (1) a duplicate license, or certificate thereof, in the event
12 the original is lost, destroyed or defaced, and (2) an amended
13 license, or certificate thereof, upon a change in the location of the
14 place of business of a wholesaler, distributor or retail dealer.

15 e. The director shall require an applicant for a tobacco products
16 retail dealer license to include on the application the address of the
17 place of business where the tobacco products will be sold. If the
18 place of business is moved to a different address than that provided
19 on the license application, the licensee shall notify the director
20 within 30 days of the change of address.

21 (cf: P.L.2001, c.448, s.5)

22

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

25 7. Every distributor or wholesaler required to pay any tax
26 imposed by **【this act】** P.L.1990, c.39 (C.54:40B-1 et seq.) shall
27 keep records of every charge for and of all amounts of **【wholesale**
28 **price paid or due thereon】** each sale, use or distribution of a tobacco
29 product by the distributor or wholesaler and of the tax payable
30 thereon, in such form as the director may require. Records shall
31 include a true copy of each invoice, receipt, statement or
32 memorandum upon which the provisions of section 4 of **【this act】**
33 P.L.1990, c.39 (C.54:40B-4) require that the tax paid be stated.
34 Records shall be available for inspection and examination at any
35 time upon demand by the director or duly authorized agent or
36 employee and shall be preserved for a period of three years, except
37 that the director may consent to their destruction within that period
38 or may require that they be kept longer.

39 (cf: P.L.2001, c.448, s.6)

40

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

43 8. a. Every distributor or wholesaler required to pay tax under
44 **【this act】** P.L.1990, c.39 (C.54:40B-1 et seq.) shall on or before
45 August 20, 1990, and on or before the 20th day of each month
46 thereafter, make and file a return for the preceding month with the
47 director. The return shall show the total amount of **【wholesale**
48 **price paid】** receipts for sales **【to】** and use by the distributor or

1 wholesaler for tobacco products that are payable during the period
2 and the amount of taxes required to be paid with respect to such
3 amount. The return shall also reflect any use tax due.

4 b. The director may permit or require returns to be made
5 covering other periods and upon such dates as the director may
6 specify. In addition, the director may require payments of tax
7 liability at such intervals and based upon such classifications as the
8 director may designate. In prescribing other periods to be covered
9 by the return or intervals or classifications for payment of tax
10 liability, the director may take into account the dollar volume of tax
11 involved as well as the need for ensuring the prompt and orderly
12 collection of the taxes imposed.

13 c. The form of returns shall be prescribed by the director and
14 shall contain such information as the director may deem necessary
15 for the proper administration of this act. The director may require
16 amended returns to be filed within 20 days after notice and to
17 contain the information specified in the notice.

18 d. The director may require that in addition to any return
19 required to be filed, each licensee file a report quarterly upon those
20 dates as the director may specify, concerning, but not limited to,
21 amounts and quantities of purchases and sales and use of tobacco
22 products and the prices paid and collected thereon for each type of
23 tobacco product and for each premise of the licensee to ensure the
24 proper administration of P.L.1990, c.39 (C.54:40B-1 et seq.).
25 (cf: P.L.2001, c.448, s.7)

26

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

29 9. Every distributor or wholesaler required to file a return
30 under this act shall, at the time of filing the return, pay to the
31 director the taxes imposed by this act. Taxes for the period for
32 which a return is required to be filed or for a lesser interval as shall
33 have been designated by the director, shall be due and payable to
34 the director on the date limited for the filing of the return for the
35 period, or on the date limited for such lesser interval as the director
36 has designated, without regard to whether a return is filed or
37 whether the return which is filed correctly shows the total amount
38 of the **【wholesale price paid for】** receipts from sales **【to】** or use by
39 the distributor or wholesaler for tobacco products that are taxable
40 during the period or the taxes due thereon. **【If】** In addition to the
41 requirements in subsection d. of section 6 of P.L.1990, c.39
42 (C.54:40B-6), if the director deems it necessary to protect the
43 revenues to be obtained under this act, the director shall require a
44 distributor or wholesaler required to pay the tax imposed by this act
45 to file with the director a bond, issued by a surety company
46 authorized to transact business in this State as to solvency and
47 responsibility, in an amount as the director may fix, but not less
48 than the amount provided in subsection d. of section 6 of
49 P.L.1990, c.39, to secure the payment of any tax or penalties or

1 interest due or which may become due from the distributor or
2 wholesaler under this act. If the director determines that a
3 distributor or wholesaler is to file a bond, the director shall give
4 notice to the distributor or wholesaler to that effect specifying the
5 amount of the bond required. The distributor or wholesaler shall
6 file the bond within five days after the giving of notice unless
7 within the five days the distributor or wholesaler requests in writing
8 a hearing before the director at which the necessity, propriety and
9 amount of the bond shall be determined by the director. The
10 determination shall be final and shall be complied with within 15
11 days after the giving of notice thereof. In lieu of bond, securities
12 approved by the director or cash in an amount as the director may
13 prescribe, may be deposited, which shall be kept in the custody of
14 the director who may at any time without notice to the depositor
15 apply them to any tax or interest or penalties due, and for that
16 purpose the securities may be sold by the director at public or
17 private sale without notice to the depositor thereof.

18 (cf: P.L.2001, c.448, s.8)

19

20 18. Section 12 of P.L.1990, c.39 (C.54:40B-12) is amended to
21 read as follows:

22 12. In addition to the powers granted in **【this act】** P.L.1990,
23 c.39 (C.54:40B-1 et seq.), the director may:

24 a. Make, adopt and amend rules and regulations appropriate to
25 the carrying out of this act.

26 b. Extend, for cause shown by general regulation or individual
27 authorization, the time of filing any return for a period not
28 exceeding three months on such terms and conditions as the director
29 may require; and for cause shown, remit penalties and interest as
30 provided for in the State Uniform Tax Procedure Law, R.S.54:48-1
31 et seq.

32 c. Delegate functions and powers to any officer or employee of
33 the division, and such of the director's powers as the director may
34 deem necessary to carry out efficiently the provisions of this act,
35 and the person or persons to whom such power has been delegated
36 shall possess and may exercise all of the power and perform all of
37 the duties as delegated.

38 d. Require any distributor or wholesaler required to pay tax to
39 keep detailed records of all amounts of **【wholesale prices paid for】**
40 receipts from sales or use of the tobacco products on which taxes
41 are payable, and names and addresses of wholesalers, distributors,
42 retail dealers and consumers, and other facts relevant in determining
43 the amount of tax due and to furnish such information upon request
44 to the director.

45 e. Assess, determine, revise and readjust the taxes imposed by
46 this act.

47 f. Enter into agreements with other states and the District of
48 Columbia, providing for the reciprocal enforcement of similar tax
49 laws imposed by the states entering into such an agreement. The

1 agreement may empower the duly authorized officer of any
2 contracting state, which extends like authority to officers or
3 employees of this State, to sue for the collection of that state's taxes
4 in the courts of this State.

5 (cf: P.L.2001, c.448, s.10)

6

7 19. (New section) There is established in the Department of the
8 Treasury a special, non-lapsing fund to be known as the "Smoking
9 Cessation and Addiction Treatment and Prevention Fund."

10 The fund shall be administered by the State Treasurer, and shall
11 be credited annually with \$22,000,000 of revenues collected from
12 the tax imposed by the "Tobacco Products and Nicotine Delivery
13 Products Wholesale Sales and Use Tax Act," P.L.1990, c.39
14 (C.54:40B-1 et seq.), after the first \$5,000,000 of revenue collected
15 annually from the tax imposed by P.L. 1990, c.39 (C.54:40B-1 et
16 seq.) has been deposited into the Health Care Subsidy Fund in
17 accordance with section 4 of P.L.1997, c.264 (C.26:2H-18.58g).

18 The revenue credited to the fund shall be annually appropriated
19 to the Department of the Treasury, and shall be used by the
20 department, during the fiscal year in which an appropriation is made
21 to provide funding in the following amounts for the following
22 programs and initiatives:

23 \$1,000,000 shall be awarded as a grant to the New Jersey State
24 Commission on Cancer Research established by section 4 of
25 P.L.1983, c.6 (C.52:9U-4);

26 \$11,000,000 shall be allocated to the Department of Health for
27 tobacco control, cessation, and prevention initiatives;

28 \$9,000,000 shall be allocated to the Division of Mental Health
29 and Addiction Services in the Department of Human Services for
30 substance abuse treatment and prevention programs, provided such
31 programs are included in the National Registry of Evidence-based
32 Programs and Practices established by the federal Substance Abuse
33 and Mental Health Services Administration;

34 \$500,000 shall be allocated to the Department of Health to
35 support poison information and education systems for overdose
36 surveillance and education; and

37 \$500,000 shall be allocated to the Department of Human
38 Services for syringe access programs to purchase opiate antidote.

39

40 20. (New section) a. Notwithstanding the provisions of section
41 8 of P.L.1990, c.39 (C.54:40B-8) to the contrary, each distributor
42 and wholesaler under P.L.1990, c.39 (C.54:40B-1 et seq.), shall
43 take a physical inventory of all items of tobacco products in that
44 distributor's or wholesaler's possession at the close of business on
45 the last day of the first month following the date of enactment of
46 P.L. , c. (C.) (pending before the Legislature as this bill) or
47 another date as the director may prescribe, and shall file a return
48 under oath or certified under the penalties of perjury with the
49 director in the form as the director may prescribe by the twentieth

1 day of the third month following that date of enactment, showing
2 the amount of all items of tobacco products in that distributor's or
3 wholesaler's possession in the State at the close of business on the
4 day prior to the effective date of P.L. , c. (pending before the
5 Legislature as this bill) and shall at the time of filing that return pay
6 to the director the tax imposed pursuant to section 5 of
7 P.L. , c. (C.) (pending before the Legislature as this bill) as
8 reflected on that return.

9 Failure to obtain those forms shall not be an excuse for the
10 failure to make a return containing the information required by the
11 director.

12 b. Each retail dealer shall take a physical inventory of all items
13 of tobacco products in that dealer's possession in this State at the
14 close of business on the last day of the first month following the
15 date of enactment of P.L. , c. (C.) (pending before the
16 Legislature as this bill) or another date as the director may
17 prescribe, and shall file a return under oath or certified under the
18 penalties of perjury with the director in such form as the director
19 may prescribe by the twentieth day of the third month following
20 that date of enactment, showing the amount of all items of tobacco
21 products in that dealer's possession in this State at the close of
22 business on that day and shall at the time of filing that return pay to
23 the director the tax imposed pursuant to section 5 of
24 P.L. , c. (C.) (pending before the Legislature as this bill) as
25 reflected on that return.

26 Failure to obtain those forms shall not be an excuse for the
27 failure to make a return containing the information required by the
28 director.

29

30 21. Section 4 of P.L.1997, c.264 (C.26:2H-18.58g) is amended
31 to read as follows:

32 4. Notwithstanding the provisions of any other law to the
33 contrary,

34 a. commencing July 1, 1998 and ending June 30, 2006: after
35 the deposit required pursuant to section 5 of P.L.1982, c.40
36 (C.54:40A-37.1), the first \$150,000,000 of revenue collected
37 annually from the "Cigarette Tax Act," P.L.1948, c.65 (C.54:40A-1
38 et seq.) and the first \$5,000,000 of revenue collected annually from
39 the "Tobacco Products Wholesale Sales and Use Tax Act,"
40 P.L.1990, c.39 (C.54:40B-1 et seq.), shall be deposited into the
41 Health Care Subsidy Fund established pursuant to section 8 of
42 P.L.1992, c.160 (C.26:2H-18.58); and the next \$390,000,000 of
43 revenue collected annually from the "Cigarette Tax Act," P.L.1948,
44 c.65 (C.54:40A-1 et seq.) shall be appropriated annually for health
45 programs, and the next \$50,000,000 of revenue collected annually
46 from the cigarette tax imposed pursuant to P.L.1948, c.65
47 (C.54:40A-1 et seq.) shall be appropriated annually to the New
48 Jersey Economic Development Authority for payment of debt
49 service incurred by the authority for school facilities projects and in

1 fiscal years commencing July 1, 2002 and July 1, 2003, the next
2 \$30,000,000 of revenue collected annually from the "Cigarette Tax
3 Act," P.L.1948, c.65 (C.54:40A-1 et seq.) shall be directed to the
4 Department of Health to fund anti-smoking initiatives, except that
5 the amount shall be \$40,000,000 in the fiscal year commencing July
6 1, 2004 and \$45,000,000 in the fiscal year commencing July 1,
7 2005; and

8 b. commencing with fiscal years beginning on and after July 1,
9 2006, after the deposit required pursuant to section 5 of P.L.1982,
10 c.40 (C.54:40A-37.1), the first \$150,000,000 of revenue collected
11 annually from the "Cigarette Tax Act," P.L.1948, c.65 (C.54:40A-1
12 et seq.) and the first \$5,000,000 of revenue collected annually from
13 the "Tobacco Products and Nicotine Delivery Products Wholesale
14 Sales and Use Tax Act," P.L.1990, c.39 (C.54:40B-1 et seq.), shall
15 be deposited into the Health Care Subsidy Fund established
16 pursuant to section 8 of P.L.1992, c.160 (C.26:2H-18.58). In
17 addition, commencing with fiscal years beginning on and after July
18 1, 2006 but before July 1, 2009, there shall be deposited
19 \$215,000,000 of revenue collected annually from the "Cigarette Tax
20 Act," P.L.1948, c.65 (C.54:40A-1 et seq.) in accordance with the
21 provisions of section 5 of P.L.2004, c.68 (C.34:1B-21.20), and,
22 commencing with fiscal years beginning on and after July 1, 2009,
23 there shall be deposited \$241,500,000 of revenue collected annually
24 from the "Cigarette Tax Act," P.L.1948, c.65 (C.54:40A-1 et seq.)
25 in accordance with the provisions of section 5 of P.L.2004, c.68
26 (C.34:1B-21.20). In addition, commencing with fiscal years
27 beginning on and after July 1, 2018, an amount equal to one percent
28 of the total revenues collected annually from the "Cigarette Tax
29 Act," P.L.1948, c.65 (C.54:40A-1 et seq.) and the "Tobacco
30 Products and Nicotine Delivery Products Wholesale Sales and Use
31 Tax Act," P.L.1990, c.39 (C.54:40B-1 et seq.) shall be directed to
32 the Department of Health to fund and implement evidence-based
33 tobacco control programs that align with the federal Centers for
34 Disease Control and Prevention Best Practices for Comprehensive
35 Tobacco Control Programs and that include the goals of preventing
36 youth initiation of tobacco usage, reducing exposure to secondhand
37 smoke, and promotion of cessation. Funding priority shall be given
38 to programs that aim to reduce the incidence of smoking among the
39 State's Medicaid population and youth.

40 (cf: P.L.2017, c.242, s.1)

41

42 22. Section 3 of P.L.2005, c.383 (C.26:3D-57) is amended to
43 read as follows:

44 3. As used in **[this act]** P.L.2005, c.383 (C.26:3D-55 et seq.):

45 "Bar" means a business establishment or any portion of a
46 nonprofit entity, which is devoted to the selling and serving of
47 alcoholic beverages for consumption by the public, guests, patrons
48 or members on the premises and in which the serving of food, if

1 served at all, is only incidental to the sale or consumption of such
2 beverages.

3 "Cigar bar" means any bar, or area within a bar, designated
4 specifically for the smoking of tobacco products, purchased on the
5 premises or elsewhere; except that a cigar bar that is in an area
6 within a bar shall be an area enclosed by solid walls or windows, a
7 ceiling and a solid door and equipped with a ventilation system
8 which is separately exhausted from the nonsmoking areas of the bar
9 so that air from the smoking area is not recirculated to the
10 nonsmoking areas and smoke is not backstreamed into the
11 nonsmoking areas.

12 "Cigar lounge" means any establishment, or area within an
13 establishment, designated specifically for the smoking of tobacco
14 products, purchased on the premises or elsewhere; except that a
15 cigar lounge that is in an area within an establishment shall be an
16 area enclosed by solid walls or windows, a ceiling and a solid door
17 and equipped with a ventilation system which is separately
18 exhausted from the nonsmoking areas of the establishment so that
19 air from the smoking area is not recirculated to the nonsmoking
20 areas and smoke is not backstreamed into the nonsmoking areas.

21 "Electronic smoking device" means an electronic device that can
22 be used to deliver nicotine or other substances to the person
23 inhaling from the device, including, but not limited to, an electronic
24 cigarette, cigar, cigarillo, or pipe.

25 "Indoor public place" means a structurally enclosed place of
26 business, commerce or other service-related activity, whether
27 publicly or privately owned or operated on a for-profit or nonprofit
28 basis, which is generally accessible to the public, including, but not
29 limited to: a commercial or other office building; office or building
30 owned, leased or rented by the State or by a county or municipal
31 government; public and nonpublic elementary or secondary school
32 building; board of education building; theater or concert hall; public
33 library; museum or art gallery; bar; restaurant or other
34 establishment where the principal business is the sale of food for
35 consumption on the premises, including the bar area of the
36 establishment; garage or parking facility; any public conveyance
37 operated on land or water, or in the air, and passenger waiting
38 rooms and platform areas in any stations or terminals thereof; health
39 care facility licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et
40 seq.); patient waiting room of the office of a health care provider
41 licensed pursuant to Title 45 of the Revised Statutes; child care
42 center licensed pursuant to P.L.1983, c.492 (C.30:5B-1 et seq.);
43 race track facility; facility used for the holding of sporting events;
44 ambulatory recreational facility; shopping mall or retail store; hotel,
45 motel or other lodging establishment; apartment building lobby or
46 other public area in an otherwise private building; or a passenger
47 elevator in a building other than a single-family dwelling.

1 "Person having control of an indoor public place or workplace"
2 means the owner or operator of a commercial or other office
3 building or other indoor public place from whom a workplace or
4 space within the building or indoor public place is leased.

5 "Smoking" means the burning of, inhaling from, exhaling the
6 smoke from, or the possession of a lighted cigar, cigarette, pipe or
7 any other matter or substance which contains tobacco or any other
8 matter that can be smoked, or the inhaling or exhaling of smoke or
9 vapor from an electronic smoking device.

10 "Tobacco product" shall have the meaning provided in section 2
11 of P.L.1990, c.39 (C.54:40B-2), except that "tobacco product" shall
12 not include electronic cigarettes, as defined in section 2 of
13 P.L.1990, c.39 (C.54:40B-2).

14 "Tobacco retail establishment" means an establishment in which
15 at least 51% of retail business is the sale of tobacco products and
16 accessories, and in which the sale of other products is merely
17 incidental.

18 "Workplace" means a structurally enclosed location or portion
19 thereof at which a person performs any type of service or labor.¹
20 (cf: P.L.2009, c.182, s.2)

21

22 23. This act shall take effect on the first day of the second month
23 beginning after the date of enactment, and shall apply to tobacco
24 products sold or otherwise disposed of on and after that date, except
25 for those tobacco products for which the tax was paid prior to the
26 effective date of this act, except that sections 20 and 23 of this act
27 shall take effect immediately.

28

29

30

STATEMENT

31

32 This bill increases the rate of tax imposed on tobacco products
33 under the New Jersey tobacco products wholesale sales and use tax,
34 imposes the tax on electronic cigarettes, changes the base of the tax,
35 requires licenses to conduct business in tobacco products, dedicates
36 certain revenues collected from the tax, and defines tobacco
37 products for purposes of the New Jersey Smoke-Free Air Act.

38 The bill increases, from 30% to 68%, the general tax rate
39 imposed on tobacco products under the tobacco products wholesale
40 sales and use tax, increases, from \$0.75 per ounce to \$2.25 per
41 ounce, the current weight-based tax on moist snuff, and establishes
42 specific per unit rates of tax for certain other tobacco products.
43 Under the bill,

44 -- cigars will be subject to the tobacco products wholesale sales
45 and use tax at a rate of \$2.70 for each cigar,

46 -- cigarillos will be subject to tax at a rate of \$0.54 for each
47 cigarillo,

48 -- little cigars will be subject to tax at a rate of \$0.135 for each
49 little cigar,

1 -- single-dose smokeless tobacco products will be subject to tax
2 at a rate of \$0.135 for each single-dose smokeless tobacco product,
3 and

4 -- pipe tobacco and smoking tobacco will be subject to tax at a
5 rate of \$4.15 per ounce.

6 The bill imposes the tobacco products wholesale sales and use
7 tax on electronic cigarettes. Electronic cigarettes and similar
8 tobacco-substitute smoking devices are designed to deliver a
9 nicotine-based or other substance-based vapor and are often
10 manufactured to resemble cigarettes, cigars and pipes. Under this
11 bill, the wholesale sales tax rate for these unregulated products and
12 their components is imposed at a rate of 75% to impose a tax
13 burden in line with a similar tax burden imposed upon cigarettes
14 under the cigarette tax act.

15 The bill changes the base of the tobacco products wholesale sales
16 and use tax by reestablishing the wholesaler's price charged by the
17 wholesaler upon their sale of any tobacco product to a retail dealer
18 as the base upon which the tax is determined. This was the tax base
19 imposed under the tax first enacted in 1990 but was changed in
20 2002 to the manufacturer's wholesale price, which has complicated
21 the calculation, collection and enforcement of the tax as the sale by
22 a manufacturer to a wholesaler does not trigger the wholesaler's tax
23 liability.

24 The bill requires licensing by the Division of Taxation in the
25 Department of the Treasury of businesses of a manufacturer,
26 distributor, wholesaler or retailer of tobacco products under the
27 tobacco products wholesale sales and use tax. Currently, a tax
28 license is not required to sell tobacco products such as cigars,
29 chewing tobacco, pipe tobacco, and moist snuff. The license will
30 be in addition to the certificate of authority to collect the tax and
31 will allow the director to conduct the same review of the
32 background and qualifications of such businesses as under the
33 cigarette tax act. The director will have the authority to issue the
34 license and make rules and regulations concerning the same and
35 impose licensing fees. Eighty percent of the State revenue from the
36 \$50 annual licensing fees collected from retailer dealers will be
37 credited to the special projects and development fund in the
38 Department of Health to provide grants to local health agencies for
39 local enforcement efforts concerning the sale and commercial
40 distribution of tobacco products to persons under the age of 19
41 years.

42 The bill dedicates certain revenues collected from the tax to
43 support certain smoking cessation and addiction treatment and
44 prevention programs and initiatives. Under the bill, the State
45 Treasurer is required to annually credit \$22,000,000 of revenues
46 collected from the tobacco products wholesale sales and use tax to a
47 special, nonlapsing fund in the Department of the Treasury. The
48 bill provides for those funds to be annually appropriated to the
49 department to be used to support the New Jersey State Commission

S1184 VITALE, WEINBERG

22

1 on Cancer Research (\$1,000,000), tobacco control, cessation, and
2 treatment initiatives of the Department of Health (\$11,000,000),
3 substance abuse prevention and treatment programs of the Division
4 of Mental Health and Addiction Services in the Department of
5 Human Services (\$9,000,000), poison information and education
6 programs of the Department of Health (\$500,000), and syringe
7 access programs of the Department of Human Services (\$500,000).

8 The bill also defines tobacco products for purposes of the New
9 Jersey Smoke-Free Air Act. Under the bill, the New Jersey Smoke-
10 Free Air Act is amended so that tobacco products are defined to
11 include all tobacco products subject to the tobacco products
12 wholesale sales and use tax, but specifically exclude electronic
13 cigarettes as those products are defined under the tax.