

ASSEMBLY, No. 1705

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

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

Introduced Pending Technical Review by Legislative Counsel.



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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5. This act shall take effect immediately.

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