

SENATE, No. 1008

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED JANUARY 30, 2020

Sponsored by:

Senator JOSEPH F. VITALE

District 19 (Middlesex)

SYNOPSIS

Increases tax rates on certain tobacco products to be on par with tax rate imposed on cigarettes under cigarette tax; dedicates revenue for smoking and tobacco use cessation programs.

CURRENT VERSION OF TEXT

As introduced.



1 **AN ACT** increasing tax rates on certain tobacco products to be
2 commensurate with the cigarette tax rate, and dedicating
3 revenues from the rate increases for smoking and tobacco use
4 cessation programs, amending P.L.2006, c.37 and P.L.1990,
5 c.39, and supplementing Title 26 of the Revised Statutes.

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

9
10 1. Section 3 of P.L.1990, c.39 (C.54:40B-3) is amended to read
11 as follows:

12 3. a. There is imposed a tax of **【30%】** 90% upon the wholesale
13 price upon the sale, use, or distribution of a tobacco product within
14 this State, except that if the product is:

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

17 (2) liquid nicotine, the tax shall be imposed as provided in
18 section 5 of P.L.2018, c.50 (C.54:40B-3.2).

19 b. Unless a tobacco product has already been or will be subject
20 to the wholesale sales tax imposed in subsection a. of this section, if
21 a distributor or wholesaler uses a tobacco product within this State,
22 there is imposed upon the distributor or wholesaler a compensating
23 use tax of **【30%】** 90% measured by the sales price of a similar
24 tobacco product to a distributor, except that if the product is moist
25 snuff or liquid nicotine, the tax shall be imposed as provided in
26 section 3 of P.L.2006, c.37 (C.54:40B-3.1) or section 5 of P.L.2018,
27 c.50 (C.54:40B-3.2), respectively.

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 of **【30%】** 90% of the
34 price paid or charged for the tobacco product, except that if the
35 product is moist snuff or liquid nicotine, the tax shall be imposed as
36 provided in section 3 of P.L.2006, c.37 (C.54:40B-3.1) or section 5
37 of P.L.2018, c.50 (C.54:40B-3.2), respectively, which shall be
38 collected in the manner provided in subsection b. of section 5 of
39 P.L.1990, c.39 (C.54:40B-5).
40 (cf: P.L.2018, c.50, s.4)

41
42 2. Section 3 of P.L.2006, c.37 (C.54:40B-3.1) is amended to
43 read as follows:

44 3. a. There is imposed a tax upon the sale, use or distribution
45 of moist snuff within this State by a distributor or wholesaler to a

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 retail dealer or consumer at the rate of ~~【\$0.75】~~ \$2.25 per ounce on
2 the net weight, as listed by the manufacturer, of the moist snuff, and
3 a proportionate rate on all fractional parts of an ounce of the net
4 weight of moist snuff.

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

13 c. Unless a wholesale use tax is due pursuant to subsection b.
14 of this section, if a distributor or wholesaler has not paid the
15 wholesale sales tax imposed in subsection a. of this section upon a
16 sale that is subject to the wholesale sales tax imposed in that
17 subsection a., there is imposed upon the retail dealer or consumer
18 chargeable for the sale a compensating use tax of ~~【\$0.75】~~ \$2.25 per
19 ounce on the net weight, as listed by the manufacturer, of the moist
20 snuff, and a proportionate rate on all fractional parts of an ounce of
21 the net weight of moist snuff, which shall be collected in the
22 manner provided in subsection b. of section 5 of P.L.1990, c.39
23 (C.54:40B-5).
24 (cf: P.L.2006, c.37, s.3)

25
26 3. (New section) a. Notwithstanding the provisions of section
27 8 of P.L.1990, c.39 (C.54:40B-8) to the contrary, each distributor
28 and wholesaler under P.L.1990, c.39 (C.54:40B-1 et seq.), shall
29 take a physical inventory of all items of tobacco products and items
30 of moist snuff (including total ounce or ounces, and each fractional
31 part thereof, of the net weight, as listed by the manufacturer, of the
32 moist snuff) in that distributor's or wholesaler's possession at the
33 close of business on the last day of the first month following the
34 date of enactment of P.L. , c. (C.) (pending before the
35 Legislature as this bill) or such other date as the director may
36 prescribe, and shall file a return under oath or certified under the
37 penalties of perjury with the director in such form as the director
38 may prescribe by the twentieth day of the third month following
39 that date of enactment, showing the amount of all items of tobacco
40 products and items of moist snuff (including total ounce or ounces,
41 and each fractional part thereof, of the net weight, as listed by the
42 manufacturer, of the moist snuff) in that distributor's or
43 wholesaler's possession in the State at the close of business prior to
44 the effective date of P.L. , c. (pending before the Legislature as
45 this bill) and shall at the time of filing that return pay to the
46 director:

47 (1) the tax imposed pursuant to section 1 of P.L. , c. (C.)
48 (pending before the Legislature as this bill) that is in excess of any

1 tax already paid pursuant to section 3 of P.L.1990, c.39 (C.54:40B-
2 3) on that item of tobacco product, and

3 (2) the tax imposed pursuant to section 2 of P.L. , c. (C.)
4 (pending before the Legislature as this bill) that is in excess of any
5 tax already paid pursuant to section 3 of P.L.2006, c.37 (C.54:40B-
6 3.1) on that item of moist snuff,
7 as reflected on that return.

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

11 b. Each retail dealer shall take a physical inventory of all of
12 tobacco products and items of moist snuff (including total ounce or
13 ounces, and each fractional part thereof, of the net weight, as listed
14 by the manufacturer, of the moist snuff) in that dealer's possession
15 at the close of business on the last day of the first month following
16 the date of enactment of P.L. , c. (C.) (pending before the
17 Legislature as this bill) or such other date as the director may
18 prescribe, and shall file a return under oath or certified under the
19 penalties of perjury with the director in such form as the director
20 may prescribe by the twentieth day of the third month following
21 that date of enactment, showing the amount of all items of tobacco
22 products and items of moist snuff (including total ounce or ounces,
23 and each fractional part thereof, of the net weight, as listed by the
24 manufacturer, of the moist snuff) in that dealer's possession and
25 shall at the time of filing that return pay to the director:

26 (1) the tax imposed pursuant to section 1 of P.L. , c. (C.)
27 (pending before the Legislature as this bill) that is in excess of any
28 tax already paid pursuant to section 3 of P.L.1990, c.39 (C.54:40B-
29 3) on that item of tobacco product, and

30 (2) the tax imposed pursuant to section 2 of P.L. , c. (C.)
31 (pending before the Legislature as this bill) that is in excess of any
32 tax already paid pursuant to section 3 of P.L.2006, c.37 (C.54:40B-
33 3.1) on that item of moist snuff,
34 as reflected on that return.

35 Failure to obtain such forms shall not be an excuse for the failure
36 to make a return containing the information required by the
37 director.

38

39 4. (New section) There is established in the Department of
40 Health the "Smoking and Tobacco Use Cessation Fund," which
41 shall be a nonlapsing fund to be credited annually by the State
42 Treasurer with an amount from the General Fund equal to the
43 amount determined by the State Treasurer to be derived from the
44 revenue collected pursuant to the rate increases made in sections 1
45 and 2 of P.L. , c. (C.) (pending before the Legislature as
46 this bill).

1 The monies in the fund shall be annually appropriated for use by
2 the department to fund smoking and tobacco use cessation programs
3 in the State.

4
5 5. This act shall take effect immediately and apply to tobacco
6 products and moist snuff sold or otherwise disposed of on or after
7 the first day of the second month after the date of enactment.

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9
10 **STATEMENT**

11
12 This bill increases the tax imposed on tobacco products other
13 than cigarettes and liquid nicotine, to be parallel with the current
14 cigarette tax rate, and annually dedicates revenues from the rate
15 increases for smoking and tobacco use cessation programs in the
16 Department of Health.

17 In recent years, almost every state and the federal government
18 have increased tobacco taxes. Tobacco tax increases are one of the
19 most effective ways to reduce smoking and other tobacco use,
20 especially among children. Every 10 percent increase in cigarette
21 prices reduces youth smoking by about seven percent and total
22 cigarette consumption by about four percent.

23 At both state and federal levels, and within states, there are
24 substantially different methods and rates of tax imposed upon
25 cigarettes and non-cigarette tobacco products. Different tax
26 burdens are imposed upon users of different tobacco products. No
27 compelling policy reasons exist for these differences. However,
28 higher tax rates upon one tobacco product compared to another have
29 been found to influence comparative product pricing, and consumer
30 behavior, in switching from the use of one higher priced product,
31 often also subject to stiffer distribution regulations, to the use of
32 products lower in price and less regulated. This is especially true
33 for youthful consumers.

34 Most states that have significantly increased cigarette taxes have
35 not suffered substantial decreases in revenue, and have experienced
36 reductions in the rates of smoking and other tobacco use. Higher
37 tobacco taxes also save money by reducing tobacco-related health
38 care costs, including Medicaid expenses. States have realized even
39 greater health benefits and cost savings by allocating some of the
40 tax revenue to programs that discourage adults and children from
41 smoking and using non-cigarette tobacco products and help smokers
42 and tobacco users quit.

43 A report by the Campaign for Tobacco-Free Kids has noted the
44 tax differences within each state on cigarettes and other tobacco
45 products such as cigars, chewing and other smoking tobacco, and
46 snuff. The Campaign reports that to deter tobacco use among
47 children, it is important to raise tax rates on all tobacco products to
48 prevent switching to a lower-taxed and lower-priced tobacco

1 product and prevent initiation into these other tobacco products.
2 This report calculates that a parallel rate of tax in New Jersey for
3 non-cigarette tobacco products, compared to the state tax of \$2.70
4 per cigarette pack (or \$0.135 per cigarette), equalizing the state tax
5 burden upon wholesale prices, will require a tripling of the tax rate,
6 increasing from 30% to 90% of the wholesale price of non-cigarette
7 products, and a tripling of the rate of tax per net ounce of moist
8 snuff products, from \$0.75 per ounce of net weight to \$2.25 per
9 ounce of net weight.

10 The amount of tax revenue anticipated to be annually collected
11 from the tax rate increases is to be appropriated annually from a
12 dedicated fund established in the Department of Health to fund
13 smoking and tobacco use cessation programs in the State. Under
14 this bill, the State will increase its efforts to deter tobacco use by
15 making the habit more expensive, and by enhancing its smoking and
16 tobacco use cessation programs, in a win/win battle against lung
17 cancer, New Jersey's No. 1 cancer killer, and other tobacco-related
18 cancers.