

House Bill 2968

Sponsored by COMMITTEE ON REVENUE

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Imposes tax of \$_____ per ounce on distribution of moist snuff.
Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to moist snuff; creating new provisions; amending ORS 323.500 and 323.505; prescribing an
3 effective date; and providing for revenue raising that requires approval by a three-fifths major-
4 ity.

5 **Be It Enacted by the People of the State of Oregon:**

6 **SECTION 1.** ORS 323.500 is amended to read:

7 323.500. As used in ORS 323.500 to 323.645, unless the context otherwise requires:

8 (1) "Business" means any trade, occupation, activity or enterprise engaged in for the purpose
9 of selling or distributing tobacco products in this state.

10 (2) "Cigar" means a roll for smoking that is of any size or shape and that is made wholly or in
11 part of tobacco, irrespective of whether the tobacco is pure or flavored, adulterated or mixed with
12 any other ingredient, if the roll has a wrapper made wholly or in greater part of tobacco and if 1,000
13 of these rolls collectively weigh more than three pounds. "Cigar" does not include a cigarette, as
14 defined in ORS 323.010.

15 (3) "Consumer" means any person who purchases tobacco products in this state for the person's
16 use or consumption or for any purpose other than for reselling the tobacco products to another
17 person.

18 (4) "Contraband tobacco products" means tobacco products or packages containing tobacco
19 products:

20 (a) That do not comply with the requirements of ORS 323.500 to 323.645;

21 (b) That do not comply with the requirements of the tobacco products tax laws of the federal
22 government or of other states; or

23 (c) That bear trademarks that are counterfeit under ORS 647.135 or other state or federal
24 trademark laws.

25 (5) "Department" means the Department of Revenue.

26 (6) "Distribute" means:

27 (a) Bringing, or causing to be brought, into this state from without this state tobacco products
28 for sale, storage, use or consumption;

29 (b) Making, manufacturing or fabricating tobacco products in this state for sale, storage, use or
30 consumption in this state;

31 (c) Shipping or transporting tobacco products to retail dealers in this state, to be sold, stored,

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 used or consumed by those retail dealers;

2 (d) Storing untaxed tobacco products in this state that are intended to be for sale, use or con-
3 sumption in this state;

4 (e) Selling untaxed tobacco products in this state; or

5 (f) As a consumer, being in possession of untaxed tobacco products in this state.

6 (7) "Distributor" means:

7 (a) Any person engaged in the business of selling tobacco products in this state who brings, or
8 causes to be brought, into this state from without the state any tobacco products for sale;

9 (b) Any person who makes, manufactures or fabricates tobacco products in this state for sale in
10 this state;

11 (c) Any person engaged in the business of selling tobacco products without this state who ships
12 or transports tobacco products to retail dealers in this state, to be sold by those retail dealers;

13 (d) Any person, including a retail dealer, who sells untaxed tobacco products in this state; or

14 (e) A consumer in possession of untaxed tobacco products in this state.

15 (8) "Manufacturer" means a person who manufactures tobacco products for sale.

16 (9) "**Moist snuff**" means any finely cut, ground or powdered tobacco that is not intended
17 to be smoked or placed in a nasal cavity.

18 [(9)] (10) "Place of business" means any place where tobacco products are sold or where tobacco
19 products are manufactured, stored or kept for the purpose of sale or consumption, including any
20 vessel, vehicle, airplane, train or vending machine.

21 [(10)] (11) "Retail dealer" means any person who is engaged in the business of selling or other-
22 wise dispensing tobacco products to consumers. The term also includes the operators of or recipients
23 of revenue from all places such as smoke shops, cigar stores and vending machines, where tobacco
24 products are made or stored for ultimate sale to consumers.

25 [(11)] (12) "Sale" means any transfer, exchange or barter, in any manner or by any means, for
26 a consideration, and includes and means all sales made by any person. It includes a gift by a person
27 engaged in the business of selling tobacco products, for advertising, as a means of evading the pro-
28 visions of ORS 323.500 to 323.645, or for any other purpose.

29 [(12)] (13) "Taxpayer" includes a distributor or other person required to pay a tax imposed under
30 ORS 323.500 to 323.645.

31 [(13)] (14) "Tobacco products" means cigars, cheroots, stogies, periques, granulated, plug cut,
32 crimp cut, ready rubbed and other smoking tobacco, snuff, snuff flour, **moist snuff**, cavendish, plug
33 and twist tobacco, fine-cut and other chewing tobaccos, shorts, refuse scraps, clippings, cuttings and
34 sweepings of tobacco and other kinds and forms of tobacco, prepared in such manner as to be suit-
35 able for chewing or smoking in a pipe or otherwise, or both for chewing and smoking, but shall not
36 include cigarettes as defined in ORS 323.010.

37 [(14)] (15) "Untaxed tobacco products" means tobacco products for which the tax required under
38 ORS 323.500 to 323.645 has not been paid.

39 [(15)] (16) "Wholesale sales price" means the price paid for untaxed tobacco products to or on
40 behalf of a seller by a purchaser of the untaxed tobacco products.

41 **SECTION 2.** ORS 323.505 is amended to read:

42 323.505. (1) A tax is hereby imposed upon the distribution of all tobacco products in this state.
43 The tax imposed by this section is intended to be a direct tax on the consumer, for which payment
44 upon distribution is required to achieve convenience and facility in the collection and administration
45 of the tax. The tax shall be imposed on a distributor at the time the distributor distributes tobacco

1 products.

2 (2) The tax imposed under this section shall be imposed at the rate of:

3 (a) Sixty-five percent of the wholesale sales price of cigars, but not to exceed 50 cents per cigar;
4 [or]

5 (b) \$_____ per ounce for moist snuff, based on the net weight determined by the man-
6 ufacturer for each package of moist snuff; or

7 [(b)] (c) Sixty-five percent of the wholesale sales price of all tobacco products that are not cigars
8 or moist snuff.

9 (3) If the tax imposed under this section does not equal an amount calculable to a whole cent,
10 the tax shall be equal to the next higher whole cent. However, the amount remitted to the Depart-
11 ment of Revenue by the taxpayer for each quarter shall be equal only to 98.5 percent of the total
12 taxes due and payable by the taxpayer for the quarter.

13 (4) No tobacco product shall be subject to the tax if the base product or other intermediate form
14 thereof has previously been taxed under this section.

15 **SECTION 3. The amendments to ORS 323.505 by section 2 of this 2007 Act apply only to**
16 **moist snuff distributed on or after the effective date of this 2007 Act.**

17 **SECTION 4. This 2007 Act takes effect on the 91st day after the date on which the reg-**
18 **ular session of the Seventy-fourth Legislative Assembly adjourns sine die.**

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