

House Bill 3387

Sponsored by COMMITTEE ON HUMAN SERVICES

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**.

Increases rate of tax on cigarettes and other tobacco products. Establishes Oregon Health Plan Standard Fund. Dedicates revenues in fund to provision of medical services to persons 19 years of age or older with incomes at or below federal poverty guidelines who lack Medicare coverage. Credits increased tax revenues to fund and continuously appropriates moneys to Department of Human Services.

Applies to tobacco products reporting periods beginning on or after January 1, 2010.
Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to tobacco taxes; creating new provisions; amending ORS 323.030, 323.031, 323.455, 323.505
3 and 323.625; appropriating money; prescribing an effective date; and providing for revenue rais-
4 ing that requires approval by a three-fifths majority.

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

6 **SECTION 1.** ORS 323.030 is amended to read:

7 323.030. (1) Every distributor shall pay a tax upon distributions of cigarettes at the rate of 29
8 mills for the distribution of each cigarette in this state.

9 **(2) In addition to the tax imposed under subsection (1) of this section, every distributor**
10 **shall pay a tax upon distributions of cigarettes at the rate of 20 mills for the distribution of**
11 **each cigarette in this state.**

12 [(2)] **(3)** The taxes imposed by ORS 323.005 to 323.482 are in lieu of all other state, county or
13 municipal taxes on the sale or use of cigarettes.

14 [(3)] **(4)** Any cigarette with respect to which a tax has been prepaid under ORS 323.068 or has
15 otherwise once been imposed under ORS 323.005 to 323.482 is not subject upon a subsequent dis-
16 tribution to the taxes imposed by ORS 323.005 to 323.482.

17 **SECTION 2.** ORS 323.031 is amended to read:

18 323.031. (1) Notwithstanding ORS 323.030 [(2)] **(3)** and in addition to and not in lieu of any other
19 tax, every distributor shall pay a tax upon distributions of cigarettes at the rate of 30 mills for the
20 distribution of each cigarette in this state.

21 (2) Any cigarette for which a tax has once been imposed under ORS 323.005 to 323.482 may not
22 be subject upon a subsequent distribution to the taxes imposed by ORS 323.005 to 323.482.

23 **SECTION 3.** ORS 323.455 is amended to read:

24 323.455. (1) All moneys received by the Department of Revenue from the tax imposed by ORS
25 323.030 (1) shall be paid over to the State Treasurer to be held in a suspense account established
26 under ORS 293.445. After the payment of refunds, 89.65 percent shall be credited to the General
27 Fund, 3.45 percent is appropriated to the cities of this state, 3.45 percent is appropriated to the
28 counties of this state and 3.45 percent is continuously appropriated to the Department of Transpor-

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 tation for the purpose of financing and improving transportation services for elderly individuals and
 2 individuals with disabilities as provided in ORS 391.800 to 391.830.

3 (2) The moneys so appropriated to cities and counties shall be paid on a monthly basis within
 4 35 days after the end of the month for which a distribution is made. Each city shall receive such
 5 share of the money appropriated to all cities as its population, as determined under ORS 190.510 to
 6 190.590 last preceding such apportionment, bears to the total population of the cities of the state,
 7 and each county shall receive such share of the money as its population, determined under ORS
 8 190.510 to 190.590 last preceding such apportionment, bears to the total population of the state.

9 (3) The moneys appropriated to the Department of Transportation under subsection (1) of this
 10 section shall be distributed and transferred to the Elderly and Disabled Special Transportation Fund
 11 established by ORS 391.800 at the same time as the cigarette tax moneys are distributed to cities
 12 and counties under this section.

13 (4) Of the moneys credited to the General Fund under **subsection (1) of this section** 51.92 per-
 14 cent shall be dedicated to funding the maintenance and expansion of the number of persons eligible
 15 for medical assistance under the Oregon Health Plan, or to funding the maintenance of the benefits
 16 available under the Oregon Health Plan, or both, and 5.77 percent shall be credited to the Tobacco
 17 Use Reduction Account established under ORS 431.832.

18 **(5) All moneys received by the Department of Revenue from the tax imposed by ORS**
 19 **323.030 (2) shall be paid over to the State Treasurer to be held in a suspense account estab-**
 20 **lished under ORS 293.445. After the payment of refunds, the balance shall be credited to the**
 21 **Oregon Health Plan Standard Fund established in section 6 of this 2009 Act.**

22 **SECTION 4.** ORS 323.505 is amended to read:

23 323.505. (1) A tax is hereby imposed upon the distribution of all tobacco products in this state.
 24 The tax imposed by this section is intended to be a direct tax on the consumer, for which payment
 25 upon distribution is required to achieve convenience and facility in the collection and administration
 26 of the tax. The tax shall be imposed on a distributor at the time the distributor distributes tobacco
 27 products.

28 (2) *[The tax imposed under this section shall be imposed]* **A tax is imposed under this sub-**
 29 **section** at the rate of:

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

32 (b) Sixty-five percent of the wholesale sales price of all tobacco products that are not cigars.

33 **(3) In addition to the tax imposed under subsection (2) of this section, a tax is imposed**
 34 **under this subsection upon the distribution of all tobacco products at the rate of:**

35 **(a) Forty cents per retail container not in excess of three ounces;**

36 **(b) Thirteen cents per ounce for retail containers in excess of three ounces; or**

37 **(c) Forty cents per cigar.**

38 *[(3)]* (4) If the tax imposed under this section does not equal an amount calculable to a whole
 39 cent, the tax shall be equal to the next higher whole cent. However, the amount remitted to the
 40 Department of Revenue by the taxpayer for each quarter shall be equal only to 98.5 percent of the
 41 total taxes due and payable by the taxpayer for the quarter.

42 *[(4)]* (5) No tobacco product shall be subject to the tax if the base product or other intermediate
 43 form thereof has previously been taxed under this section.

44 **SECTION 5.** ORS 323.625 is amended to read:

45 323.625. (1)(a) All moneys received by the Department of Revenue under ORS *[323.500 to*

1 323.645] **323.505 (2)** shall be deposited in the State Treasury and credited to a suspense account
 2 established under ORS 293.445.

3 **(b)** After payment of refunds or credits arising from erroneous overpayments, the balance of the
 4 money **received under ORS 323.505 (2)** shall be credited to the General Fund. Of the amount
 5 credited to the General Fund under this [section] **subsection** 41.54 percent shall be dedicated to
 6 funding the maintenance and expansion of the number of persons eligible for medical assistance
 7 under the Oregon Health Plan, or to funding the maintenance of the benefits available under the
 8 Oregon Health Plan, or both, and 4.62 percent shall be credited to the Tobacco Use Reduction Ac-
 9 count established under ORS 431.832.

10 **(2)(a)** All moneys received by the department under ORS 323.505 (3) shall be deposited in
 11 the State Treasury and credited to a suspense account established under ORS 293.445.

12 **(b)** After payment of refunds or credits arising from erroneous overpayments, the bal-
 13 ance of the money received under ORS 323.505 (3) shall be credited to the Oregon Health Plan
 14 Standard Fund established in section 6 of this 2009 Act.

15 **SECTION 6.** (1) The Oregon Health Plan Standard Fund is established in the State
 16 Treasury, separate and distinct from the General Fund. Interest earned by the Oregon
 17 Health Plan Standard Fund shall be credited to the fund.

18 **(2)** Revenues credited to the fund pursuant to ORS 323.455 (5) and 323.625 (2) and other
 19 moneys in the fund are dedicated to funding the expansion of medical services provided to
 20 persons described in ORS 414.706 (5).

21 **(3)** Moneys in the fund are continuously appropriated to the Department of Human Ser-
 22 vices for the purpose set forth in subsection (2) of this section.

23 **SECTION 7.** (1) In addition to and not in lieu of any other tax, for the privilege of holding
 24 or storing cigarettes for sale, use or consumption, a floor tax is imposed upon every dealer
 25 at the rate of 20 mills for each cigarette in the possession of or under the control of the
 26 dealer in this state at 12:01 a.m. on January 1, 2010.

27 **(2)** The tax imposed by this section is due and payable on or before January 20, 2010. Any
 28 amount of tax that is not paid within the time required shall bear interest at the rate es-
 29 tablished under ORS 305.220 per month, or fraction of a month, from the date on which the
 30 tax is due to be paid, until paid.

31 **(3)** By January 20, 2010, every dealer must file a report with the Department of Revenue
 32 in such form as the department may prescribe. The report must state the number of ciga-
 33 rettes in the possession of or under the control of the dealer in this state at 12:01 a.m. on
 34 January 1, 2010, and the amount of tax due. Each report must be accompanied by a remit-
 35 tance payable to the department for the amount of tax due.

36 **(4)** As used in this section, “dealer” has the meaning given that term in ORS 323.010.

37 **SECTION 8.** Notwithstanding ORS 323.030 (3), for the privilege of distributing cigarettes
 38 as a distributor, as defined in ORS 323.015, and for holding or storing cigarettes for sale, use
 39 or consumption, a floor tax and cigarette adjustment indicia tax is imposed upon every dis-
 40 tributor in the amount of 50 cents for each Oregon cigarette tax stamp bearing the desig-
 41 nation “25,” in the amount of 40 cents for each Oregon cigarette tax stamp bearing the
 42 designation “20” and in the amount of 20 cents for each Oregon cigarette tax stamp bearing
 43 the designation “10,” that is affixed to any package of cigarettes in the possession of or un-
 44 der the control of the distributor at 12:01 a.m. on January 1, 2010.

45 **SECTION 9.** (1) Every distributor as defined in ORS 323.015 must take an inventory as

1 of 12:01 a.m. on January 1, 2010, of all packages of cigarettes to which are affixed Oregon
2 cigarette tax stamps and of all unaffixed Oregon cigarette tax stamps in the possession of
3 or under the control of the distributor.

4 (2) Every distributor must file a report with the Department of Revenue by January 20,
5 2010, in such form as the department may prescribe, showing:

6 (a) The number of Oregon cigarette tax stamps, with the designations of the stamps, that
7 were affixed to packages of cigarettes in the possession of or under the control of the dis-
8 tributor at 12:01 a.m. on January 1, 2010; and

9 (b) The number of unaffixed Oregon cigarette tax stamps, with the designations of the
10 stamps, that were in the possession of or under the control of the distributor at 12:01 a.m.
11 on January 1, 2010.

12 (3) The amount of tax required to be paid with respect to the affixed Oregon cigarette
13 tax stamps shall be computed pursuant to section 8 of this 2009 Act and remitted with the
14 distributor's report. Any amount of tax not paid within the time specified for the filing of
15 the report shall bear interest at the rate established under ORS 305.220 per month, or frac-
16 tion of a month, from the due date of the report until paid.

17 SECTION 10. The amendments to ORS 323.030, 323.031, 323.455, 323.505 and 323.625 by
18 sections 1 to 5 of this 2009 Act apply to tobacco products reporting periods beginning on or
19 after January 1, 2010.

20 SECTION 11. This 2009 Act takes effect on the 91st day after the date on which the
21 regular session of the Seventy-fifth Legislative Assembly adjourns sine die.

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