

House Bill 2166

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim 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**.

Increases tax on cigarettes. Distributes tax revenues from increase. Applies to cigarette distributions occurring on or after January 1, 2016.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to products containing nicotine; creating new provisions; amending ORS 323.030 and
3 323.455 and section 19, chapter 5, Oregon Laws 2013 (special session); and prescribing an effective
4 date.

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 **150.0125** mills for the distribution of each cigarette in this state.

9 (2) The taxes imposed by ORS 323.005 to 323.482 are in lieu of all other state, county or municipal
10 taxes on the sale or use of cigarettes.

11 (3) Any cigarette with respect to which a tax has been prepaid under ORS 323.068 or has otherwise
12 once been imposed under ORS 323.005 to 323.482 is not subject upon a subsequent distribution
13 to the taxes imposed by ORS 323.005 to 323.482.

14 (4) In addition to and not in lieu of any other tax imposed under ORS 323.005 to 323.482, every
15 distributor shall pay a tax upon distributions of cigarettes at the rate of 6.5 mills for the distribution
16 of each cigarette in this state.

17 **SECTION 2.** ORS 323.030, as amended by section 15, chapter 5, Oregon Laws 2013 (special
18 session), is amended to read:

19 323.030. (1) Every distributor shall pay a tax upon distributions of cigarettes at the rate of [29]
20 **150.0125** mills for the distribution of each cigarette in this state.

21 (2) The taxes imposed by ORS 323.005 to 323.482 are in lieu of all other state, county or municipal
22 taxes on the sale or use of cigarettes.

23 (3) Any cigarette with respect to which a tax has been prepaid under ORS 323.068 or has otherwise
24 once been imposed under ORS 323.005 to 323.482 is not subject upon a subsequent distribution
25 to the taxes imposed by ORS 323.005 to 323.482.

26 (4) In addition to and not in lieu of any other tax imposed under ORS 323.005 to 323.482, every
27 distributor shall pay a tax upon distributions of cigarettes at the rate of seven mills for the distribution
28 of each cigarette in this state.

29 **SECTION 3.** ORS 323.030, as amended by sections 15 and 16, chapter 5, Oregon Laws 2013
30 (special session), is amended to read:

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.

1 323.030. (1) Every distributor shall pay a tax upon distributions of cigarettes at the rate of [29]
 2 **150.0125** mills for the distribution of each cigarette in this state.

3 (2) The taxes imposed by ORS 323.005 to 323.482 are in lieu of all other state, county or mu-
 4 nicipal taxes on the sale or use of cigarettes.

5 (3) Any cigarette with respect to which a tax has been prepaid under ORS 323.068 or has oth-
 6 erwise once been imposed under ORS 323.005 to 323.482 is not subject upon a subsequent distrib-
 7 ution to the taxes imposed by ORS 323.005 to 323.482.

8 (4) In addition to and not in lieu of any other tax imposed under ORS 323.005 to 323.482, every
 9 distributor shall pay a tax upon distributions of cigarettes at the rate of 7.5 mills for the distribution
 10 of each cigarette in this state.

11 **SECTION 4.** ORS 323.455, as amended by section 5, chapter 114, Oregon Laws 2014, is amended
 12 to read:

13 323.455. (1) All moneys received by the Department of Revenue from the tax imposed by ORS
 14 323.030 (1) shall be paid over to the State Treasurer to be held in a suspense account established
 15 under ORS 293.445. The department may pay expenses for administration and enforcement of ORS
 16 323.005 to 323.482 out of moneys received from the tax imposed under ORS 323.030 (1). Amounts
 17 necessary to pay administrative and enforcement expenses are continuously appropriated to the de-
 18 partment from the suspense account. After the payment of administrative and enforcement expenses
 19 and refunds, [89.65] **44.44** percent shall be credited to the General Fund, **49.77 percent shall be**
 20 **credited to the Oregon Health Plan Fund established under ORS 414.109**, [3.45] **1.93** percent is
 21 appropriated to the cities of this state, [3.45] **1.93** percent is appropriated to the counties of this
 22 state and [3.45] **1.93** percent is continuously appropriated to the Department of Transportation for
 23 the purpose of financing and improving transportation services for elderly individuals and individ-
 24 uals with disabilities as provided in ORS 391.800 to 391.830.

25 (2) The moneys appropriated to cities and counties under subsection (1) of this section shall be
 26 paid on a monthly basis within 35 days after the end of the month for which a distribution is made.
 27 Each city shall receive such share of the money appropriated to all cities as its population, as de-
 28 termined under ORS 190.510 to 190.590 last preceding such apportionment, bears to the total popu-
 29 lation of the cities of the state, and each county shall receive such share of the money as its
 30 population, determined under ORS 190.510 to 190.590 last preceding such apportionment, bears to the
 31 total population of the state.

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

36 (4) Of the moneys credited to the General Fund under [subsections (1) and (5)(b)] **subsection (1)**
 37 of this section, [51.92] **51.91** percent shall be dedicated to funding the maintenance and expansion
 38 of the number of persons eligible for the medical assistance program under ORS chapter 414, or to
 39 funding the maintenance of the benefits available under the program, or both, and [5.77] **5.78** percent
 40 shall be credited to the Tobacco Use Reduction Account established under ORS 431.832.

41 (5) All moneys received by the Department of Revenue from the tax imposed by ORS 323.030 (4)
 42 shall be paid over to the State Treasurer to be held in a suspense account established under ORS
 43 293.445. After the payment of refunds, the balance shall be credited [as follows:]

44 [(a) 76.92 percent] to the Oregon Health Authority Fund established by ORS 413.101[, for the
 45 purpose of providing] **and shall be used to provide** the services described in ORS 430.630.

1 *[(b) 23.08 percent to the General Fund.]*

2 **SECTION 5.** Section 19, chapter 5, Oregon Laws 2013 (special session), is amended to read:

3 **Sec. 19.** (1) The amendments to ORS 323.030 and 323.455 by sections 14 and 17, **chapter 5,**
4 **Oregon Laws 2013 (special session),** *[of this 2013 special session Act]* apply to distributions of
5 cigarettes occurring on or after January 1, 2014, and before January 1, 2016.

6 (2) The amendments to ORS 323.030 by section 15, **chapter 5, Oregon Laws 2013 (special**
7 **session),** *[of this 2013 special session Act]* apply to distributions of cigarettes occurring on or after
8 January 1, 2016, and before January 1, 2018.

9 (3) The amendments to ORS 323.030 by section 16, **chapter 5, Oregon Laws 2013 (special**
10 **session),** *[of this 2013 special session Act]* apply to distributions of cigarettes occurring on or after
11 January 1, 2018.

12 (4) The amendments to ORS 323.455 by section 18 *[of this 2013 special session Act],* **chapter 5,**
13 **Oregon Laws 2013 (special session), and by section 4 of this 2015 Act** apply to distributions of
14 cigarettes occurring on or after January 1, 2016.

15 (5) **The amendments to ORS 323.030 by section 1 of this 2015 Act apply to distributions**
16 **of cigarettes occurring on or after January 1, 2016.**

17 **SECTION 6.** Section 7 of this 2015 Act is added to and made a part of ORS 323.005 to
18 **323.482.**

19 **SECTION 7.** ORS 323.031 does not apply to cigarette distributions occurring on or after
20 **the later of January 1, 2016, or the first day of the calendar month following the effective**
21 **date of this 2015 Act.**

22 **SECTION 8.** (1) Notwithstanding ORS 323.030 (3) and in addition to and not in lieu of any
23 **other tax, for the privilege of holding or storing cigarettes for sale, use or consumption, a**
24 **floor tax is imposed upon every dealer at the rate of 90.0125 mills for each cigarette in the**
25 **possession of or under the control of the dealer in this state at 12:01 a.m. on the later of**
26 **January 1, 2016, or the first day of the calendar month following the effective date of this**
27 **2015 Act.**

28 (2) The tax imposed by this section is due and payable on or before 20 days after the later
29 **of January 1, 2016, or the first day of the calendar month following the effective date of this**
30 **2015 Act. Any amount of tax that is not paid within the time required shall bear interest at**
31 **the rate established under ORS 305.220 per month, or fraction of a month, from the date on**
32 **which the tax is due to be paid, until paid.**

33 (3) **On or before 20 days after the later of January 1, 2016, or the first day of the calendar**
34 **month following the effective date of this 2015 Act, every dealer must file a report with the**
35 **Department of Revenue in such form as the department may prescribe. The report must**
36 **state the number of cigarettes in the possession of or under the control of the dealer in this**
37 **state at 12:01 a.m. on the later of January 1, 2016, or the first day of the calendar month**
38 **following the effective date of this 2015 Act and the amount of tax due. Each report must**
39 **be accompanied by a remittance payable to the department for the amount of tax due.**

40 **SECTION 9.** Notwithstanding ORS 323.030 (3) and in addition to and not in lieu of any
41 **other tax, for the privilege of distributing cigarettes as a distributor and for holding or**
42 **storing cigarettes for sale, use or consumption, a floor tax and cigarette adjustment indicia**
43 **tax is imposed upon every distributor in the amount of \$2.27 and 53/100 cents for each Oregon**
44 **cigarette tax stamp bearing the designation “25,” in the amount of \$1.82 and 25/100 cents for**
45 **each Oregon cigarette tax stamp bearing the designation “20,” in the amount of 90 and**

1 12.5/100 cents for each Oregon cigarette tax stamp bearing the designation “10” and in the
 2 amount of 9 and 11/100 cents for each Oregon cigarette tax stamp bearing the designation
 3 “1” that is affixed to any package of cigarettes in the possession of or under the control of
 4 the distributor at 12:01 a.m. on the later of January 1, 2016, or the first day of the calendar
 5 month following the effective date of this 2015 Act.

6 **SECTION 10.** (1) Every distributor must take an inventory as of 12:01 a.m. on the later
 7 of January 1, 2016, or the first day of the calendar month following the effective date of this
 8 2015 Act of all packages of cigarettes to which are affixed Oregon cigarette tax stamps and
 9 of all unaffixed Oregon cigarette tax stamps in the possession of or under the control of the
 10 distributor.

11 (2) Every distributor must file a report with the Department of Revenue on or before 20
 12 days after the later of January 1, 2016, or the first day of the calendar month following the
 13 effective date of this 2015 Act in such form as the department may prescribe, showing:

14 (a) The number of Oregon cigarette tax stamps, with the designations of the stamps, that
 15 were affixed to packages of cigarettes in the possession of or under the control of the dis-
 16 tributor at 12:01 a.m. on the later of January 1, 2016, or the first day of the calendar month
 17 following the effective date of this 2015 Act; and

18 (b) The number of unaffixed Oregon cigarette tax stamps, with the designations of the
 19 stamps, that were in the possession of or under the control of the distributor at 12:01 a.m.
 20 on the later of January 1, 2016, or the first day of the calendar month following the effective
 21 date of this 2015 Act.

22 (3) The amount of tax required to be paid with respect to the affixed Oregon cigarette
 23 tax stamps shall be computed pursuant to section 9 of this 2015 Act and remitted with the
 24 distributor’s report. Any amount of tax not paid within the time specified for the filing of
 25 the report shall bear interest at the rate established under ORS 305.220 per month, or frac-
 26 tion of a month, from the due date of the report until paid.

27 (4) Notwithstanding ORS 323.320, the department may establish a date after which the
 28 value of stamps sold prior to the effective date of this 2015 Act will not be refunded or
 29 credited to a distributor.

30 **SECTION 11.** All moneys received by the Department of Revenue from the taxes imposed
 31 by sections 8 and 9 of this 2015 Act shall be paid over to the State Treasurer to be held in
 32 a suspense account established under ORS 293.445. After the payment of refunds, the net
 33 amount of revenues remaining shall be distributed as prescribed in ORS 323.455.

34 **SECTION 12.** The Department of Revenue may take administrative actions it considers
 35 necessary to implement sections 8 to 10 of this 2015 Act and the amendments to ORS 323.030
 36 and 323.455 by sections 1 to 4 of this 2015 Act, including but not limited to:

37 (1) Limiting sales of stamps prior to the effective date of this 2015 Act;

38 (2) Selling stamps at the increased rate prior to the effective date of this 2015 Act; or

39 (3) Establishing a date after which stamps sold prior to the effective date of this 2015
 40 Act will not be redeemed.

41 **SECTION 13.** This 2015 Act takes effect on the 91st day after the date on which the 2015
 42 regular session of the Seventy-eighth Legislative Assembly adjourns sine die.