

# House Bill 2406

Sponsored by Representative LIVELY; Representative NOSSE (Presession filed.)

## 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 cigarette tax and provides for distribution of increase in revenue. Applies increase to cigarettes distributed on or after January 1, 2018, and to existing inventories of cigarettes not yet acquired by consumers as of January 1, 2018.

Refers Act to people for their approval or rejection at special election held on November 7, 2017.

## A BILL FOR AN ACT

1  
2 Relating to tax on cigarettes; creating new provisions; amending ORS 323.031 and 323.457; providing  
3 for revenue raising that requires approval by a three-fifths majority; and providing that this Act  
4 shall be referred to the people for their approval or rejection.

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

6 **SECTION 1.** ORS 323.031 is amended to read:

7 323.031. (1) Notwithstanding ORS 323.030 (2) and in addition to and not in lieu of any other tax,  
8 every distributor shall pay a tax upon distributions of cigarettes at the rate of [30] **114.5** mills for  
9 the distribution of each cigarette in this state.

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

12 **SECTION 2.** ORS 323.457 is amended to read:

13 323.457. (1) Moneys received under ORS 323.031 shall be paid over to the State Treasurer to be  
14 held in a suspense account established under ORS 293.445. After the payment of refunds:

15 (a) [29.37/30] **29.37/114.5** of the moneys shall be credited to the Oregon Health Plan Fund es-  
16 tablished under ORS 414.109;

17 (b) [0.14/30] **0.14/114.5** of the moneys are continuously appropriated to the Oregon Department  
18 of Administrative Services for distribution to the cities of this state;

19 (c) [0.14/30] **0.14/114.5** of the moneys are continuously appropriated to the Oregon Department  
20 of Administrative Services for distribution to the counties of this state;

21 (d) [0.14/30] **0.14/114.5** of the moneys are continuously appropriated to the Department of  
22 Transportation to be distributed and transferred to the Elderly and Disabled Special Transportation  
23 Fund established under ORS 391.800; [and]

24 (e) [0.21/30] **0.21/114.5** of the moneys shall be credited to the Tobacco Use Reduction Account  
25 established under ORS 431A.153[.];

26 (f) **63.37/114.5 of the moneys shall be credited to the Oregon Health Authority Fund es-**  
27 **established under ORS 413.101, for the purpose of maintaining the medical assistance program;**  
28 **and**

29 (g) **21.13/114.5 of the moneys are continuously appropriated to the Oregon Health Au-**  
30 **thority for the purpose of providing the services described in ORS 430.630.**

**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 (2)(a) Moneys distributed to cities and counties under this section shall be distributed to each  
 2 city or county using the proportions used for distributions made under ORS 323.455.

3 (b) Moneys shall be distributed to cities, counties and the Elderly and Disabled Special Trans-  
 4 portation Fund at the same time moneys are distributed to cities, counties and the Elderly and  
 5 Disabled Special Transportation Fund under ORS 323.455.

6 **SECTION 3. (1) In addition to and not in lieu of any other tax, for the privilege of holding  
 7 or storing cigarettes for sale, use or consumption, a floor tax is imposed upon every dealer  
 8 at the rate of 84.5 mills for each cigarette in the possession of or under the control of the  
 9 dealer in this state at 12:01 a.m. on January 1, 2018.**

10 (2) The tax imposed by this section is due and payable on or before January 20, 2018. Any  
 11 amount of tax that is not paid within the time required shall bear interest at the rate es-  
 12 tablished under ORS 305.220 per month, or fraction of a month, from the date on which the  
 13 tax is due to be paid, until paid.

14 (3) By January 20, 2018, every dealer must file a report with the Department of Revenue  
 15 in such form as the department may prescribe. The report must state the number of ciga-  
 16 rettes in the possession of or under the control of the dealer in this state at 12:01 a.m. on  
 17 January 1, 2018, and the amount of tax due. Each report must be accompanied by a remit-  
 18 tance payable to the department for the amount of tax due.

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

20 **SECTION 4. Notwithstanding ORS 323.030 (3), for the privilege of distributing cigarettes  
 21 as a distributor, as defined in ORS 323.015, and for holding or storing cigarettes for sale, use  
 22 or consumption, a floor tax and cigarette adjustment indicia tax is imposed upon every dis-  
 23 tributor in the amount of \$2 and 11.25 cents for each Oregon cigarette tax stamp bearing the  
 24 designation “25,” and in the amount of \$1.69 for each Oregon cigarette tax stamp bearing the  
 25 designation “20,” that is affixed to any package of cigarettes in the possession of or under  
 26 the control of the distributor at 12:01 a.m. on January 1, 2018.**

27 **SECTION 5. (1) Every distributor as defined in ORS 323.015 must take an inventory as  
 28 of 12:01 a.m. on January 1, 2018, of all packages of cigarettes to which are affixed Oregon  
 29 cigarette tax stamps and of all unaffixed Oregon cigarette tax stamps in the possession of  
 30 or under the control of the distributor.**

31 (2) Every distributor must file a report with the Department of Revenue by January 20,  
 32 2018, in such form as the department may prescribe, showing:

33 (a) The number of Oregon cigarette tax stamps, with the designations of the stamps, that  
 34 were affixed to packages of cigarettes in the possession of or under the control of the dis-  
 35 tributor at 12:01 a.m. on January 1, 2018; and

36 (b) The number of unaffixed Oregon cigarette tax stamps, with the designations of the  
 37 stamps, that were in the possession of or under the control of the distributor at 12:01 a.m.  
 38 on January 1, 2018.

39 (3) The amount of tax required to be paid with respect to the affixed Oregon cigarette  
 40 tax stamps shall be computed pursuant to section 4 of this 2017 Act and remitted with the  
 41 distributor’s report. Any amount of tax not paid within the time specified for the filing of  
 42 the report shall bear interest at the rate established under ORS 305.220 per month, or frac-  
 43 tion of a month, from the due date of the report until paid.

44 **SECTION 6. All moneys received by the Department of Revenue from the taxes imposed  
 45 by sections 3 and 4 of this 2017 Act shall be paid over to the State Treasurer to be held in**

1 a suspense account established under ORS 293.445. After payment of refunds, the balance  
2 shall be credited to the General Fund.

3 SECTION 7. The amendments to ORS 323.031 and 323.457 by sections 1 and 2 of this 2017  
4 Act apply to distributions of cigarettes occurring on or after January 1, 2018.

5 SECTION 8. This 2017 Act shall be submitted to the people for their approval or rejection  
6 at a special election held throughout this state on November 7, 2017.

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