

House Bill 2662

Sponsored by Representative KENY-GUYER, Senator STEINER HAYWARD, Representative PILUSO; Senators BURDICK, TAYLOR (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. Removes per-unit maximum tax on cigars.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to tax on tobacco products; creating new provisions; amending ORS 323.031, 323.457 and
3 323.505; prescribing an effective date; and providing for revenue raising that requires approval
4 by a three-fifths majority.

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] **110** mills for the
9 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] **29.37/110** of the moneys shall be credited to the Oregon Health Plan Fund estab-
16 lished under ORS 414.109;

17 (b) [0.14/30] **0.14/110** of the moneys are continuously appropriated to the Oregon Department of
18 Administrative Services for distribution to the cities of this state;

19 (c) [0.14/30] **0.14/110** of the moneys are continuously appropriated to the Oregon Department of
20 Administrative Services for distribution to the counties of this state;

21 (d) [0.14/30] **0.14/110** of the moneys are continuously appropriated to the Department of Trans-
22 portation to be distributed and transferred to the Elderly and Disabled Special Transportation Fund
23 established under ORS 391.800; [and]

24 (e) [0.21/30] **16.21/110** of the moneys shall be credited to the Tobacco Use Reduction Account
25 established under ORS 431A.153[.]; and

26 (f) **64/110 of the moneys are continuously appropriated to the Oregon Health Authority**
27 **for purposes of:**

28 (A) **Community-centered health initiatives that are designed to address tobacco use ces-**
29 **sation in populations that use tobacco at a disproportionately higher rate than other popu-**
30 **lations;**

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 (B) Tobacco use prevention programs in schools;

2 (C) Providing assistance to county health department tobacco use cessation and pre-
3 vention programs; and

4 (D) Treating persons who are eligible for the Oregon Health Plan and have respiratory
5 conditions attributable to tobacco exposure or use.

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

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

11 **SECTION 3.** (1) In addition to and not in lieu of any other tax, for the privilege of holding
12 or storing cigarettes for sale, use or consumption, a floor tax is imposed upon every dealer
13 at the rate of 80 mills for each cigarette in the possession of or under the control of the
14 dealer in this state at 12:01 a.m. on January 1, 2018.

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

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

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

25 **SECTION 4.** Notwithstanding ORS 323.030 (3), for the privilege of distributing cigarettes
26 as a distributor, as defined in ORS 323.015, and for holding or storing cigarettes for sale, use
27 or consumption, a floor tax and cigarette adjustment indicia tax is imposed upon every dis-
28 tributor in the amount of \$2 for each Oregon cigarette tax stamp bearing the designation
29 “25,” and in the amount of \$1.60 for each Oregon cigarette tax stamp bearing the designation
30 “20,” that is affixed to any package of cigarettes in the possession of or under the control
31 of the distributor at 12:01 a.m. on January 1, 2018.

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

36 (2) Every distributor must file a report with the Department of Revenue by January 20,
37 2018, in such form as the department may prescribe, showing:

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

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

44 (3) The amount of tax required to be paid with respect to the affixed Oregon cigarette
45 tax stamps shall be computed pursuant to section 4 of this 2017 Act and remitted with the

1 distributor's report. Any amount of tax not paid within the time specified for the filing of
2 the report shall bear interest at the rate established under ORS 305.220 per month, or frac-
3 tion of a month, from the due date of the report until paid.

4 **SECTION 6.** All moneys received by the Department of Revenue from the taxes imposed
5 by sections 3 and 4 of this 2017 Act shall be paid over to the State Treasurer to be held in
6 a suspense account established under ORS 293.445. After payment of refunds, the balance
7 shall be credited to the General Fund.

8 **SECTION 7.** ORS 323.505 is amended to read:

9 323.505. (1) A tax is hereby imposed upon the distribution of all tobacco products in this state.
10 The tax imposed by this section is intended to be a direct tax on the consumer, for which payment
11 upon distribution is required to achieve convenience and facility in the collection and administration
12 of the tax. The tax shall be imposed on a distributor at the time the distributor distributes tobacco
13 products.

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

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

16 [(b)] (a) One dollar and seventy-eight cents per ounce based on the net weight determined by
17 the manufacturer, in the case of moist snuff, except that the minimum tax under this paragraph is
18 \$2.14 per retail container; or

19 [(c)] (b) Sixty-five percent of the wholesale sales price of all tobacco products that are not [*ci-*
20 *gars or*] moist snuff.

21 (3) For reporting periods beginning on or after July 1, 2022, the rates of tax applicable to moist
22 snuff under subsection [(2)(b)] (2)(a) of this section shall be adjusted for each biennium according
23 to the cost-of-living adjustment for the calendar year. The Department of Revenue shall recompute
24 the rates for each biennium by adding to the rates in subsection [(2)(b)] (2)(a) of this section the
25 product obtained by multiplying the rates in subsection [(2)(b)] (2)(a) of this section by a factor that
26 is equal to 0.25 multiplied by the percentage (if any) by which the monthly averaged U.S. City Av-
27 erage Consumer Price Index for the 12 consecutive months ending August 31 of the prior calendar
28 year exceeds the monthly averaged U.S. City Average Consumer Price Index for the 12 consecutive
29 months ending August 31, 2020.

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

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

36 **SECTION 8.** The amendments to ORS 323.031, 323.457 and 323.505 by sections 1, 2 and 7
37 of this 2017 Act apply to distributions of cigarettes and cigars occurring on or after January
38 1, 2018.

39 **SECTION 9.** This 2017 Act takes effect on the 91st day after the date on which the 2017
40 regular session of the Seventy-ninth Legislative Assembly adjourns sine die.