

# House Bill 2274

Sponsored by Representative CLEM (Pre-session 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 rate of taxation on cigarettes. Distributes tax revenues from increases in cigarette tax to Oregon Health Authority to provide preventive services and innovative, nontraditional health services, including mental health services and treatment for substance use disorders, through coordinated care organizations.

Applies to distributions of cigarettes occurring on or after January 1, 2022.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to taxation of products containing nicotine; creating new provisions; amending ORS 323.030  
3 and 323.455; prescribing an effective date; and providing for revenue raising that requires ap-  
4 proval 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) The taxes imposed by ORS 323.005 to 323.482 are in lieu of all other state, county or mu-  
10 nicipal 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 oth-  
12 erwise once been imposed under ORS 323.005 to 323.482 is not subject upon a subsequent distrib-  
13 ution 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 7.5 mills for the distribution  
16 of each cigarette in this state.

17 **(5) In addition to and not in lieu of any other tax imposed under ORS 323.005 to 323.482,**  
18 **every distributor shall pay a tax upon distributions of cigarettes at the rate of 17 mills for**  
19 **the distribution of each cigarette in this state.**

20 **SECTION 2.** ORS 323.455, as amended by section 4, chapter 525, Oregon Laws 2019, is amended  
21 to read:

22 323.455. (1) All moneys received by the Department of Revenue from the tax imposed by ORS  
23 323.030 (1) shall be paid over to the State Treasurer to be held in a suspense account established  
24 under ORS 293.445. The department may pay expenses for administration and enforcement of ORS  
25 323.005 to 323.482 out of moneys received from the tax imposed under ORS 323.030 (1), after all  
26 amounts available under section 3, chapter 525, Oregon Laws 2019, for expenses for administration  
27 and enforcement of ORS 323.005 to 323.482 have been used. Amounts necessary to pay administrative  
28 and enforcement expenses are continuously appropriated to the department from the suspense ac-  
29 count. After the payment of administrative and enforcement expenses and refunds, 89.65 percent

**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 shall be credited to the General Fund, 3.45 percent is appropriated to the cities of this state, 3.45  
 2 percent is appropriated to the counties of this state and 3.45 percent is continuously appropriated  
 3 to the Department of Transportation for the purpose of financing and improving transportation ser-  
 4 vices for elderly individuals and individuals with disabilities as provided in ORS 391.800 to 391.830.

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

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

16 (4) Of the moneys credited to the General Fund under subsection (1) of this section, 51.92 per-  
 17 cent shall be dedicated to funding the maintenance and expansion of the number of persons eligible  
 18 for the medical assistance program under ORS chapter 414, or to funding the maintenance of the  
 19 benefits available under the program, or both, and 5.77 percent shall be credited to the Tobacco Use  
 20 Reduction Account established under ORS 431A.153.

21 (5) All moneys received by the Department of Revenue from the tax imposed by ORS 323.030 (4)  
 22 shall be paid over to the State Treasurer to be held in a suspense account established under ORS  
 23 293.445. After the payment of refunds, the balance shall be credited to the Oregon Health Authority  
 24 Fund established by ORS 413.101 and shall be used to provide the services described in ORS 430.630.

25 **(6) All moneys received by the Department of Revenue from the tax imposed by ORS**  
 26 **323.030 (5) shall be paid over to the State Treasurer to be held in a suspense account estab-**  
 27 **lished under ORS 293.445. After the payment of refunds, the balance shall be credited to the**  
 28 **Oregon Health Authority Fund established by ORS 413.101, for the purpose of providing funds**  
 29 **to coordinated care organizations under contract with the Oregon Health Authority pursuant**  
 30 **to ORS 414.591, and shall be used to provide preventive services and innovative, nontradi-**  
 31 **tional health services, pursuant to ORS 414.065. At least 15 percent of the moneys credited**  
 32 **to the Oregon Health Authority Fund under this subsection shall be used to provide mental**  
 33 **health services or treatment for substance use disorders.**

34 **SECTION 3.** ORS 323.455, as amended by section 4, chapter 525, Oregon Laws 2019, and section  
 35 11, chapter 15, Oregon Laws 2020 (first special session), is amended to read:

36 323.455. (1) All moneys received by the Department of Revenue from the tax imposed by ORS  
 37 323.030 (1) shall be paid over to the State Treasurer to be held in a suspense account established  
 38 under ORS 293.445. The department may pay expenses for administration and enforcement of ORS  
 39 323.005 to 323.482 out of moneys received from the tax imposed under ORS 323.030 (1), after all  
 40 amounts available under section 3, chapter 525, Oregon Laws 2019, for expenses for administration  
 41 and enforcement of ORS 323.005 to 323.482 have been used. Amounts necessary to pay administrative  
 42 and enforcement expenses are continuously appropriated to the department from the suspense ac-  
 43 count. After the payment of administrative and enforcement expenses and refunds, 89.65 percent  
 44 shall be credited to the General Fund, 3.45 percent is appropriated to the cities of this state, 3.45  
 45 percent is appropriated to the counties of this state and 3.45 percent is continuously appropriated

1 to the Department of Transportation for the purpose of financing and improving transportation ser-  
 2 vices for older adults and individuals with disabilities.

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

10 (3) The moneys appropriated to the Department of Transportation under subsection (1) of this  
 11 section shall be distributed and transferred to the Statewide Transportation Improvement Fund es-  
 12 tablished in ORS 184.751 at the same time as the cigarette tax moneys are distributed to cities and  
 13 counties under this section.

14 (4) Of the moneys credited to the General Fund under subsection (1) of this section, 51.92 per-  
 15 cent shall be dedicated to funding the maintenance and expansion of the number of persons eligible  
 16 for the medical assistance program under ORS chapter 414, or to funding the maintenance of the  
 17 benefits available under the program, or both, and 5.77 percent shall be credited to the Tobacco Use  
 18 Reduction Account established under ORS 431A.153.

19 (5) All moneys received by the Department of Revenue from the tax imposed by ORS 323.030 (4)  
 20 shall be paid over to the State Treasurer to be held in a suspense account established under ORS  
 21 293.445. After the payment of refunds, the balance shall be credited to the Oregon Health Authority  
 22 Fund established by ORS 413.101 and shall be used to provide the services described in ORS 430.630.

23 **(6) All moneys received by the Department of Revenue from the tax imposed by ORS**  
 24 **323.030 (5) shall be paid over to the State Treasurer to be held in a suspense account estab-**  
 25 **lished under ORS 293.445. After the payment of refunds, the balance shall be credited to the**  
 26 **Oregon Health Authority Fund established by ORS 413.101, for the purpose of providing funds**  
 27 **to coordinated care organizations under contract with the Oregon Health Authority pursuant**  
 28 **to ORS 414.591, and shall be used to provide preventive services and innovative, nontradi-**  
 29 **tional health services, pursuant to ORS 414.065. At least 15 percent of the moneys credited**  
 30 **to the Oregon Health Authority Fund under this subsection shall be used to provide mental**  
 31 **health services or treatment for substance use disorders.**

32 **SECTION 4. (1) In addition to and not in lieu of any other tax, for the privilege of holding**  
 33 **or storing cigarettes for sale, use or consumption, a floor tax is imposed upon every dealer**  
 34 **at the rate of 17 mills for each cigarette in the possession of or under the control of the**  
 35 **dealer in this state at 12:01 a.m. on January 1, 2022.**

36 **(2) The tax imposed by this section is due and payable on or before January 20, 2022. Any**  
 37 **amount of tax that is not paid within the time required shall bear interest at the rate es-**  
 38 **tablished under ORS 305.220 per month, or fraction of a month, from the date on which the**  
 39 **tax is due to be paid, until paid.**

40 **(3) On or before January 20, 2022, every dealer must file a report with the Department**  
 41 **of Revenue in such form as the department may prescribe. The report must state the num-**  
 42 **ber of cigarettes in the possession of or under the control of the dealer in this state at 12:01**  
 43 **a.m. on January 1, 2022, and the amount of tax due. Each report must be accompanied by a**  
 44 **remittance payable to the department for the amount of tax due.**

45 **SECTION 5. In addition to and not in lieu of any other tax, for the privilege of distrib-**

1 uting cigarettes as a distributor and for holding or storing cigarettes for sale, use or con-  
 2 sumption, a floor tax and cigarette adjustment indicia tax is imposed upon every distributor  
 3 in the amount of \$0.425 for each Oregon cigarette tax stamp bearing the designation “25,”  
 4 and in the amount of \$0.34 for each Oregon cigarette tax stamp bearing the designation  
 5 “20,” that is affixed to any package of cigarettes in the possession of or under the control  
 6 of the distributor at 12:01 a.m. on January 1, 2022.

7 **SECTION 6.** (1) Every distributor must take an inventory as of 12:01 a.m. on January 1,  
 8 2022, of all packages of cigarettes to which are affixed Oregon cigarette tax stamps and of  
 9 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  
 12 January 20, 2022, in such form as the department may prescribe, showing:

13 (a) The number of Oregon cigarette tax stamps, with the designations of the stamps, that  
 14 were affixed to packages of cigarettes in the possession of or under the control of the dis-  
 15 tributor at 12:01 a.m. on January 1, 2022; and

16 (b) The number of unaffixed Oregon cigarette tax stamps, with the designations of the  
 17 stamps, that were in the possession of or under the control of the distributor at 12:01 a.m.  
 18 on January 1, 2022.

19 (3) The amount of tax required to be paid with respect to the affixed Oregon cigarette  
 20 tax stamps shall be computed pursuant to section 5 of this 2021 Act and remitted with the  
 21 distributor’s report. Any amount of tax not paid within the time specified for the filing of  
 22 the report shall bear interest at the rate established under ORS 305.220 per month, or frac-  
 23 tion of a month, from the due date of the report until paid.

24 **SECTION 7.** The amendments to ORS 323.030 and 323.455 by sections 1 to 3 of this 2021  
 25 Act apply to distributions of cigarettes occurring on or after January 1, 2022.

26 **SECTION 8.** This 2021 Act takes effect on the 91st day after the date on which the 2021  
 27 regular session of the Eighty-first Legislative Assembly adjourns sine die.  
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