

# SENATE BILL REPORT

## SB 6097

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As Passed Senate, April 15, 2005

**Title:** An act relating to increasing other tobacco products tax revenue through various measures that include the establishment of a new tax rate coupled with enhanced enforcement provisions.

**Brief Description:** Regarding other tobacco products.

**Sponsors:** Senators Prentice, Hewitt, Eide, Delvin, Doumit and Schoesler.

**Brief History:**

**Committee Activity:** Ways & Means: 4/1/05, 4/4/05 [DP].

Passed Senate: 4/15/05, 40-6.

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### SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** Do pass.

Signed by Senators Prentice, Chair; Doumit, Vice Chair; Fraser, Vice Chair; Zarelli, Ranking Minority Member; Brandland, Kohl-Welles, Parlette, Pflug, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler and Thibaudeau.

**Staff:** Dean Carlson (786-7305)

**Background:** Cigarette and tobacco products taxes are added directly to the price of these goods before the sales tax is applied. The current rate for the cigarette tax is 142.5 cents per pack of 20 cigarettes. The rate for tobacco products is 129.42 percent of the wholesale price. Examples of tobacco products are cigars, pipe tobacco, and chewing tobacco.

In November 2002, the voters approved I-773 which increased the cigarette tax rate from 82.5 cents per pack to 142.5 cents per pack of 20. It also increased the tobacco products tax from 74.9 percent of wholesale price to 129.42 percent of wholesale price. Revenue from the rate increase is deposited in the Health Services Account.

The tobacco products tax of 129.42 percent is divided as follows: 48.15 percent goes to the General Fund, 64.52 percent to the Health Services Account, and the remaining 16.75 percent is dedicated to Water Quality Improvement Programs through June 30, 2021, and to the General Fund thereafter. As share of revenue the tax is split about 37 percent to the General Fund, 50 percent to the Health Services Account, and 13 percent to the Water Quality Account.

The tobacco products tax is due from the distributor when the distributor brings tobacco products into the state, manufactures tobacco products in the state, or ships tobacco products to retailers in the state.

The tax is based on the wholesale price. The wholesale price is the price charged by the manufacturer to a distributor.

The Department of Revenue administers and collects the tobacco products tax. The Department of Revenue appoints enforcement officers of the Liquor Control Board as the Department's authorized agents to engage in enforcement activities.

**Summary of Bill:** The tobacco products tax is based on the taxable sales price of tobacco products. The taxable sales price of tobacco products is generally the price at which manufacturers or distributors sell products to unaffiliated distributors, retailers, or consumers.

The tobacco products tax rate is reduced to 75 percent of taxable sales price. The tax on cigars is the lesser of 75 percent of taxable sales price or 50 cents per cigar. The tax revenue is distributed as follows: 37 percent to the General Fund, 50 percent to the Health Services Account, and 13 percent to the Water Quality Account.

The Liquor Control Board is made the enforcement authority for tobacco products tax. Distributors (\$650 fee for one place of business plus \$115 for each additional place of business) and retailers (\$93 fee for each location) of tobacco products must be licensed. No license fee is charged if the distributor or retailer holds an equivalent license to sell cigarettes.

The Department of Revenue will publish a current list of licensed distributors and retailers on their web site. Licensed distributors may only sell tobacco products to licensed retailers. Sellers of tobacco products must keep records and make them available for inspection. Criminal penalties are established for failing to obtain a license, refusal to allow inspection of place of business, failing to produce records, presenting false records, and transporting tobacco products for sale without a license or prior notification to the Liquor Control Board.

Persons transporting tobacco products must possess records showing the seller and purchaser of the tobacco products. Property that is used in the illegal shipment and distribution of tobacco products may be seized. The Department of Revenue, after notification and hearing, may revoke the license of distributors and retailers that violate the tobacco products tax law.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** The bill contains an emergency clause and takes effect on July 1, 2005.

**Testimony For:** When the tax was raised to 129 percent, it created a very complex situation that made this state the most attractive state for smuggling. Oregon lowered their tax in 2002 the same year in which we raised our tax. For a comparable box of cigars the cost would be \$129.95 on the internet, \$191.25 in Oregon, and \$369.75 in Washington. 95 percent of the people buy cigars over the internet. People generally buy tobacco products here merely to sample them or for emergency. Otherwise they go over the internet. People will try a cigar and if they like it they will order it online. With little or know enforcement, it really hurts people who play by the rules. We have had a 30 percent reduction in work force since the tax was raised and have closed two stores.

**Testimony Against:** None.

**Who Testified:** PRO: Mark Triplett, Conwood Co., Swedish Match, Cigar Association of America; Stephen Martin, Altadis USA; Dale Taylor, Rain City Cigar; Jeff Packer, Tinderbox; Ann Packer, Tinderbox; Santo Roman, Fine Wine and Cigars; T.K. Bentler, Washington Association of Neighborhood Stores.