

# HOUSE BILL REPORT

## ESHB 2493

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### As Amended by the Senate

**Title:** An act relating to the taxation of cigarettes and other tobacco products.

**Brief Description:** Concerning the taxation of cigarettes and other tobacco products.

**Sponsors:** House Committee on Finance (originally sponsored by Representatives Cody, Williams, Pedersen, Kagi, Nelson, Orwall, McCoy, Dickerson, White, Hunt, Darneille, Moeller and Roberts).

**Brief History:**

**Committee Activity:**

Finance: 1/14/10, 3/10/10 [DPS].

**First Special Session**

**Floor Activity:**

Passed House: 3/19/10, 54-42.

Senate Amended.

Passed Senate: 4/12/10, 28-17.

<p style="text-align: center;"><b>Brief Summary of Engrossed Substitute Bill</b></p> <ul style="list-style-type: none"><li>Increases taxes on cigarettes \$1 per pack and increases taxes on other tobacco products.</li></ul>
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### HOUSE COMMITTEE ON FINANCE

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Hunter, Chair; Hasegawa, Vice Chair; Conway, Ericks, Santos and Springer.

**Minority Report:** Do not pass. Signed by 2 members: Representatives Orcutt, Ranking Minority Member; Parker, Assistant Ranking Minority Member.

**Staff:** Rick Peterson (786-7150).

**Background:**

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

Tobacco products are subject to various taxes, including state retail sales and use taxes and tobacco taxes that are paid by wholesalers or distributors of the products in the state. Since July 1, 2009, all collected tobacco taxes have been deposited in the State General Fund, except for approximately 21 percent of cigarette taxes that are deposited in the Education Legacy Trust Account (\$83 million in 2009).

#### Cigarette Taxes.

The cigarette tax is added directly to the price of cigarettes before the sales tax is applied. The cigarette tax is due from the first person who sells, uses, consumes, handles, possesses, or distributes the cigarettes in the state. The cigarette tax rate is \$0.10125 per cigarette (\$2.025 per pack of 20 cigarettes). The taxpayer pays the cigarette tax by purchasing cigarette tax stamps that are placed on cigarette packs.

#### Tobacco Products Taxes.

The tobacco products tax applies to all tobacco products, except cigarettes, which are taxed separately. Examples of tobacco products include cigars, pipe tobacco, snuff, and chewing tobacco. 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 tobacco products tax rate is 75 percent of the wholesale price, but for cigars the tax is capped at 50 cents per cigar. The wholesale price is, generally, the actual purchase or selling price charged by the manufacturer or distributor. These tobacco products are not subject to any stamp requirement.

#### Tobacco Prevention and Control Account.

The Tobacco Prevention and Control Account (TPC Account) and the Tobacco Settlement Account were created in 1999, following Washington's entry into the Tobacco Master Settlement Agreement. Revenue for the TPC Account comes from the Tobacco Settlement Account, investments, donations, and other revenue directed by law. Expenditures from the TPC Account are subject to appropriations.

### **Summary of Engrossed Substitute Bill:**

Beginning April 1, 2010, taxes on cigarettes are increased \$1 per pack, and taxes on tobacco products are generally increased from 75 percent to 95 percent of the taxable sales price, with some exceptions.

#### Cigarette Tax.

Beginning April 1, 2010, the cigarette tax rate is increased from \$0.10125 to \$0.15125 per cigarette (from \$2.025 to \$3.025 per pack of 20 cigarettes). The additional cigarette taxes are deposited in the State General Fund. The amount of cigarette taxes deposited into the Education Legacy Trust Account is adjusted to 14 percent of the total cigarette tax to reflect its approximate share of the new total cigarette tax.

#### Tobacco Products Tax.

Beginning July 1, 2010, the tobacco products tax is increased from 75 percent to 95 percent of the taxable sales price, with some exceptions.

*Large Cigars.* The tobacco products tax rate on large cigars is 95 percent of the taxable sales price but not to exceed 65 cents per cigar.

*Small Cigars.* The tobacco products tax rate on small cigars is a per cigar tax that is the same as the per cigarette tax (\$3.025 per pack of 20). Small cigars are defined as cigars with a cellulose acetate integrated filter.

*Moist Snuff.* The tobacco products tax rate on moist snuff is based on a single unit package. The tax rate is the greater of 95 percent of the taxable sales price or 83.5 percent of the per pack tax on cigarettes (\$2.526 per unit.) For units larger than 1.2 ounces, the tax rate is increased proportionally based on the package size.

Tobacco Tracking Code.

Within one year of the date that the federal government requires a tobacco code to track tobacco products, all individual packages must contain the code that would verify if taxes have been paid on the product. If the federal government does not implement a tobacco code by July 1, 2011, the Department of Revenue must, by July 1, 2014, recommend to the Legislature a method of determining whether tax has been paid on a product.

**EFFECT OF SENATE AMENDMENT(S):**

The senate amendment changes the effective date for the cigarette tax rate increase and the tobacco products rate increases, except for moist snuff, from April 1, 2010 to May 1, 2010.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill contains an emergency clause and takes effect on April 1, 2010.

**Staff Summary of Public Testimony:**

(In support) This bill would allocate \$18 million to tobacco prevention programs, which has seen budget cuts. It will result in a percentage of people who quit smoking. Taxing tobacco ensures that people who want to quit will be able to. Previous state tax increases has reduced youth and adult smoking. Anti-tobacco ads and the quitline are very effective in helping people not start smoking and/or quit smoking and these need to be continued. Smokers are a huge cost to small businesses with increased health care costs and lost worker's productivity due to smoke breaks.

(In support with concerns) Currently, there is not a technology available that can track and trace moist snuff.

(Opposed) This increased tax on tobacco will hurt small business, especially local convenience stores. With a 50 percent increase in cigarette taxes, small business will struggle to have the cash flow to pay for these taxes and could face going out of business. The sales of tobacco products will go to other states such as Oregon and Idaho where the tax

is lower. It is also a regressive tax. Typically, a larger percentage of smokers are low-income and this is an undue burden. This bill will have a huge impact on small business cigar shops. We thought that the last 50 cent increase on cigars was going to be the last one and that Legislators finally realized the money they were actually losing. This tax will put small businesses out of business, people will lose jobs, and this bill will not end up generating any more revenue. Premium cigars are non-addictive and they are a lifestyle choice and hobby. Children are not smoking premium cigars, and cigars should not be taxed like cigarettes. Obesity has a bigger public health impact on Washington verses smoking and we should be focused on that issue instead.

(Other) Tobacco is the number one public health issue. There are new tobacco products that closely resemble candy and are enticing to kids. We need to continue to fund the tobacco prevention program.

**Persons Testifying:** (In support) Representative Cody, prime sponsor; Chris Sherwin, American Heart Association; Walt Bigby, Olympic Educational Service District; Jeff Harris, University of Washington School of Public Health; Dr. Tim McAfee, Free and Clear; and Vance Lobe.

(In support with concerns) Jeff Gombosky, McLane Inc.

(Opposed) David Malik, Washington Neighborhood Association; Mark Johnson, Washington Retail Association; Amber Carter, Association of Washington Business; Justin Erickson, Harbor Wholesale Grocery, Washington Association of Neighborhood Stores; Stacy Thrasher, Kirsten Pipe Company; Don Hanes, Monarch Marketing; Joe Arundel, Rain City Cigar; Jeff Packer, Tinder Box; and Dale Taylor, Cigar Association of Washington.

(Other) Meghan Sullivan, Together.

**Persons Signed In To Testify But Not Testifying:** None.