

LEGISLATIVE HISTORY CHECKLIST

NJSA: 54:40A-8 et al

(Cigarette tax--amount imposed on packs of 25)

LAWS OF: 1985

CHAPTER: 261

Bill No: A800

Sponsor(s): Gorman and Bryant

Date Introduced: January 10, 1984

Committee: Assembly: -----

Senate: -----

Amended during passage: Yes Amendments during passage denoted by asterisks

Date of Passage: Assembly: June 20, 1985

Senate: June 24, 1985

Date of Approval: July 31, 1985

Following statements are attached if available:

Sponsor statement: Yes Attached: Assembly amendments, adopted 2-23-84 (with statement)

Committee statement: Assembly No

Senate No

Fiscal Note: No

Veto Message: No

Message on Signing: Yes

Following were printed:

Reports: No

Hearings: No

Veto to A3665 (1982-3)--attached

See newspaper clipping "Leader of the packs..." 3-12-84 Bergen Record--attached.

261 85
7-31-85

[SECOND OFFICIAL COPY REPRINT]

ASSEMBLY, No. 800

STATE OF NEW JERSEY

INTRODUCED JANUARY 10, 1984

By Assemblymen GORMAN and BRYANT

AN ACT concerning the taxation of cigarettes and amending P. L.
1948, c. 65 *and P. L. 1982, c. 40*.*

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey*:

1 1. Section 301 of P. L. 1948, c. 65 (C. 54:40A-8) is amended to
2 read as follows:

3 301. Tax imposed; rate. A tax is hereby imposed on the sale, use
4 or possession for sale or use within this State of all cigarettes at the
5 rate of \$0.09½ for each 10 cigarettes or fraction thereof ****[except**
6 *in the case of cigarettes packaged with 25 cigarettes in which case*
7 *that tax is imposed at a rate of \$0.24 ¾ per package.]*** and a sur-
8 tax equal to a percent of the average wholesale price, which percent
9 shall be the same as the rate of tax imposed on retail sales pursuant
10 to the "Sales and Use Tax Act," P. L. 1966, c. 30 (C. 54:32B-1 et
11 seq.), rounded to the next highest cent but not less than **[\$0.002½]**
12 ***[\$0.01 ¼]*** ****[\$0.01 ½]**** ****\$0.02 ½**** for each **[10]**
13 ****[5]**** ****10**** cigarettes or fraction thereof**;** provided, however,
14 that on the effective date of this 1982 amendatory and supplemeu-
15 tary act, the surtax shall be \$0.02½ for each 10 cigarettes or frac-
16 tion thereof**].** ****For packs containing 25 cigarettes the tax shall be**
17 **125% of the tax and surtax on packs containing 20 cigarettes.****

1 *2. Section 4 of P. L. 1982, c. 40 (C. 54:40A-8.2) is amended to
2 read as follows:

3 4. For the purpose of computing the surtax pursuant to section
4 301 of P. L. 1948, c. 65 (C. 54:40A-8), the Director of the Division
5 of Taxation shall determine and cause to be published every six

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
is not enacted and is intended to be omitted in the law.**

Matter printed in italics thus is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

***—Assembly amendments adopted February 23, 1984.**

****—Assembly amendments adopted May 13, 1985.**

6 months commencing January 1, 1983, the average wholesale price of cigarettes in the State based upon the best available current data. Using the price so determined as the base price, the director shall determine, and notify all persons required to report under this act, and cause to be published in the New Jersey Register, the cigarette surtax due pursuant to section 301 of P. L. 1948, c. 65 (C. 54:40A-8) on each 10 cigarettes or fraction thereof, expressed in cents, rounded up to the nearest cent, during the succeeding six months; *except that in the case of cigarettes packaged with 25 cigarettes the surtax shall be determined with respect to that quantity, expressed in cents, rounded up to the nearest cent, during the succeeding six months.**

1 **3. Section 401 of P. L. 1948, c. 65 (C. 54:40A-11) is amended
2 to read as follows:

3 401. Director to provide revenue stamps. The taxes imposed
4 and levied by this act shall be paid through the use of stamps, except
5 as provided in section 205 (Consumers) of this act. The director
6 shall secure stamps of such designs and denominations as he shall
7 prescribe, suitable to be affixed to packages, and provide for the
8 sale thereof to licensed distributors. Only licensed distributors
9 shall affix and cancel stamps and no distributor shall affix or cancel
10 any stamp except at the tax rate in effect on the date of such affix-
11 ing or cancellation; except that on the effective date of a tax rate
12 increase or of a surtax or of an increase in a surtax, imposed under
13 this act, licensed distributors and wholesale dealers must take a
14 physical inventory of cigarettes on hand at the close of business
15 prior to the date of the tax increase or surtax or surtax increase
16 imposed under this act and must pay any additional tax for all
17 cigarettes bearing stamps at the rate in effect prior to the tax
18 increase. The director shall prescribe the method of collecting the
19 additional tax. The director shall not authorize any person to sell
20 revenue stamps except his duly constituted agents and assistants.
21 On sales of revenue stamps the director shall allow, as compensa-
22 tion for the services and expenses of the distributor in affixing and
23 handling of such stamps, a discount of 1.156% of the face amount
24 of any sale of 1,000 stamps or more; provided, that the distributor
25 has complied with all the provisions of this act, and provided, how-
26 ever, that the director shall be empowered to adjust such discount
27 whenever an increase in the surtax is required under section 4 of
28 **[this 1982 amendatory and supplementary act]** *P. L. 1982, c. 40*
29 *(C. 54:40A-8.2); and provided, further, however, that the director*
30 *shall be empowered to adjust such discount to provide equivalent*

31 *compensation with respect to the face value of each 1,000 stamps*
32 *or more required for packages of cigarettes which contains 25 ciga-*
33 *rettes.* No discount shall be allowed on any sale of less than 1,000
34 stamps and stamps shall not be sold in blocks of less than 100
35 stamps.**

1 **[2.]** **[*3.]* **4.** This act shall take effect on the first
2 day of the **[first]** **second** month next following enactment.

ASSEMBLY, No. 800

STATE OF NEW JERSEY

INTRODUCED JANUARY 10, 1984

By Assemblymen GORMAN and BRYANT

AN ACT concerning the taxation of cigarettes and amending P. L.
1948, c. 65.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. Section 301 of P. L. 1948, c. 65 (C. 54:40A-8) is amended to
2 read as follows:

3 301. Tax imposed; rate. A tax is hereby imposed on the sale, use
4 or possession for sale or use within this State of all cigarettes at the
5 rate of \$0.09½ for each 10 cigarettes or fraction thereof *except in*
6 *the case of cigarettes packaged with 25 cigarettes in which case that*
7 *tax is imposed at a rate of \$0.24 3/4 per package, and a surtax equal*
8 *to a percent of the average wholesale price, which percent shall be*
9 *the same as the rate of tax imposed on retail sales pursuant to the*
10 *"Sales and Use Tax Act," P. L. 1966, c. 30 (C. 54:32B-1 et seq.),*
11 *rounded to the next highest cent but not less than* **[\$0.02½]**
12 *\$0.01 1/4 for each* **[10]** *5 cigarettes or fraction thereof* **;** *provided,*
13 *however, that on the effective date of this 1982 amendatory and*
14 *supplementary act, the surtax shall be \$0.02½ for each 10 cigarettes*
15 *or fraction thereof* **].**

1 2. This act shall take effect on the first day of the first month next
2 following enactment.

STATEMENT

This bill amends the cigarette tax law by imposing a separate tax rate of \$0.24¾ only on cigarettes packaged in groups of 25. The current tax of \$0.09½ for each 10 cigarettes or fraction thereof is not

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Matter printed in italics thus is new matter.

changed. The bill also amends the cigarette surtax rate to provide a rate of tax on packages of 25 cigarettes that is equivalent to packages of 20 cigarettes.

These changes in the cigarette tax law conform to the Governor's recommended changes contained in his conditional veto (corrected copy) of Assembly Bill No. 3665 OCR of 1983.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

January 9, 1984

ASSEMBLY BILL NO. 3665 (OCR)

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the Constitution, I herewith return Assembly Bill No. 3665 (OCR) with my objections for reconsideration.

This bill would increase the State excise tax from 9½¢ for each 10 cigarettes or fraction thereof to 12½¢ for each 10 cigarettes or fraction thereof, except in the case of 25 cigarettes in which case the tax would be 31½¢ per package.

This legislation would further abolish the State's 6% surtax on sales of cigarettes, effectively replacing it with 3¢ additional excise tax per 10 cigarettes. Finally, the bill would also eliminate the Director's power to make technical adjustments in the revenue stamping discount rate.

I can understand the intention of this bill to provide a more equitable excise tax upon a package of cigarettes containing only 25 cigarettes, rather than taxing such a package as if it contained 30 cigarettes, which would be required under the current law which taxes each 10 cigarettes or fraction thereof. Therefore, I have recommended a tax schedule which includes a more equitable \$0.24-¾ rate for a 25-cigarette package rather than the \$0.28½ rate which would apply under the current law. I cannot, however, support the provision which would eliminate the State's longstanding percentage surtax on cigarettes. Neither do I think it wise to eliminate the Director of the Division of Taxation's power to by administrative action make necessary technical adjustments in the revenue stamping discount rate in the future; it makes no sense to require the Director of the Division of Taxation to have to go back to the Legislature each time such a technical adjustment becomes necessary.

Therefore, I recommend the following amendments to the Legislature for its concurrence:

Page 1, Title, Line 1: Omit "," insert "and"

Page, 1, Title, Lines 2-3: Omit "and P.L. 1982, c.40 and repealing section 4 of P.L. 1982, c.40"

Page 1, Section 1, Lines 3-18: Delete in entirety.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

2

Page 1, Section 1, After Line 18: Insert:

"301. Tax imposed: rate. A tax is hereby imposed on the sale, use or possession for sale or use within this State of all cigarettes at the rate of \$0.09½ for each 10 cigarettes or fraction thereof except in the case of cigarettes packaged with 25 cigarettes in which case that tax is imposed at a rate of \$0.24-¾ per package, and a surtax equal to a percent of the average wholesale price, which percent shall be the same as the rate of tax imposed on retail sales pursuant to the 'Sales and Use Tax Act,' P.L. 1966, c. 30 (C.54:32B-1 et seq.), rounded to the next highest cent but not less than \$0.02½ for each 10 cigarettes or fraction thereof."

Page 2, Section 2, Lines 1-14: Delete in entirety.

Pages 2-3, Section 3, Lines 1-31: Delete in entirety.

Page 3, Section 4, Line 1: Delete in entirety.

Page 3, Section 5, Line 1: Delete "5." insert "2."
respectfully,

/s/ Thomas H. Kean

GOVERNOR

(seal)

Attest: . . .

/s/ W. Cary Edwards
Chief Counsel

THURSDAY, AUGUST 1, 1985

The Governor also signed the following bills:

A-800, sponsored by Assemblyman Francis J. Gorman, D-Camden, which provides that the tax levied on cigarettes sold in packages of 25 be levied at the same rate as the tax on packages of 20.

The bill amends the current law, which imposes the tax on the basis of 10 cigarettes or any part thereof, which had the effect of taxing a package of 25 cigarettes on the basis of 30.

S-1420, sponsored by State Senator Walter Rand, D-Camden, which amends the Consumer Fraud Act to prohibit the solicitation of used goods for the purpose of resale for profit, without informing the donor of the profit-making nature of the business. If the profits are shared with a non-profit organization, the proportion of the share must be disclosed.

S-1775, sponsored by Senate President Carmen A. Orechio, D-Essex, which allows chiropractors licensed in other states to take the practical licensing examination in New Jersey.

S-2053, sponsored by State Senator John F. Russo, D-Ocean, which establishes a procedure by which a patient may authorize a psychologist to disclose certain limited confidential information to third party payors, including insurance companies and employers.

S-2367, sponsored by State Senator Edward T. O'Connor, Jr., D-Hudson, which allows the Commissioner of Banking to promulgate rules and regulations to allow State chartered savings banks to make loans to the bank's officers, managers and directors. The bill repeals the current law, which prohibits a bank officer or manager from borrowing from his or her bank.