

# 54:40A-8

## LEGISLATIVE HISTORY CHECKLIST

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**LAWS OF:** 2006                    **CHAPTER:** 37

**NJSA:** 54:40A-8 (Raises cigarette tax rate 17 1/2 cents per pack, changes tobacco products wholesale sales tax on moist snuff to weight-based tax and increases revenue dedication for Health Care Subsidy Fund)

**BILL NO:** A4705 (Substituted for S1990)

**SPONSOR(S)** Gusciora and others

**DATE INTRODUCED:** June 26, 2006

**COMMITTEE:**            **ASSEMBLY:** Budget

**SENATE:**

**AMENDED DURING PASSAGE:** Yes

**DATE OF PASSAGE:**            **ASSEMBLY:** July 8, 2006

**SENATE:** July 8, 2006

**DATE OF APPROVAL:** July 8, 2006

**FOLLOWING ARE ATTACHED IF AVAILABLE:**

[FINAL TEXT OF BILL](#) (1st reprint enacted)

**A4705**

[SPONSOR'S STATEMENT](#): (Begins on page 5 of original bill) [Yes](#)

**COMMITTEE STATEMENT:**                    [ASSEMBLY:](#) [Yes](#)

**SENATE:** No

**FLOOR AMENDMENT STATEMENT:** No

**LEGISLATIVE FISCAL NOTE:** No

**S1990**

[SPONSOR'S STATEMENT](#): (Begins on page 5 of original bill) [Yes](#)

**COMMITTEE STATEMENT:**                    **ASSEMBLY:** No

[SENATE:](#) [Yes](#)

**FLOOR AMENDMENT STATEMENT:** No

**LEGISLATIVE FISCAL ESTIMATE:** No

**VETO MESSAGE:** No

**GOVERNOR'S PRESS RELEASE ON SIGNING:** No

**FOLLOWING WERE PRINTED:**

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**REPORTS:** No

**HEARINGS:** No

**NEWSPAPER ARTICLES:** No

RWH 3/4/08

§2 - Note to  
54:40A-11  
§3 - C.54:40B-3.1  
§6 - Note to §3  
§8 - Note to §§1-7

P.L. 2006, CHAPTER 37, *approved July 8, 2006*  
Assembly, No. 4705 (*First Reprint*)

1 AN ACT raising the cigarette tax rate **'[and] '** changing the  
2 tobacco products wholesale sales tax on moist snuff to a weight-  
3 based tax 'and increasing funds deposited in the Health Care  
4 Subsidy Fund', amending and supplementing P.L.1990, c.39 and  
5 P.L.1948, c.65 'and amending P.L.1997, c.264'.  
6

7 **BE IT ENACTED** by the Senate and General Assembly of the State  
8 of New Jersey:  
9

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

12 301. Tax imposed; rate. A tax is hereby imposed on the sale, use  
13 or possession for sale or use within this State of all cigarettes at the  
14 rate of **['\$0.12] '\$0.1375] \$0.12875'** for each cigarette.  
15 (cf: P.L.2004, c.67, s.1)  
16

17 2. (New section) a. Each retail licensee under P.L.1948, c.65  
18 (C.54:40A-1 et seq.), shall, on or before the first day of the second  
19 month after the effective date of P.L. , c. (pending before the  
20 Legislature as this bill), file a return under oath or certified under  
21 the penalties of perjury with the director on forms furnished by the  
22 director, showing the amount of cigarettes in the retail licensee's  
23 possession in the State at 12:01 a.m. on the effective date of  
24 P.L. , c. (pending before the Legislature as this bill), and shall at  
25 the time of filing that return pay the tax to the director. Failure to  
26 obtain such forms shall not be an excuse for the failure to make a  
27 return containing the information required by the director.

28 b. Notwithstanding the provisions of section 401 of P.L.1948,  
29 c.65 (C.54:40A-11) to the contrary, each licensed distributor and  
30 wholesale dealer under P.L.1948, c.65 (C.54:40A-1 et seq.), shall,  
31 on or before the first day of the second month after the effective  
32 date of P.L. , c. (pending before the Legislature as this bill), file  
33 a return under oath or certified under the penalties of perjury with  
34 the director on forms furnished by the director, showing the amount  
35 of cigarettes in the dealer's or wholesaler's possession in the State  
36 at the close of business prior to the effective date of  
37 P.L. , c. (pending before the Legislature as this bill). An  
38 amount of tax shall be due equal to the additional tax on the number  
39 of cigarettes bearing stamps, and unaffixed stamps on hand. Each

**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 underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly ABU committee amendments adopted July 7, 2006.

1 licensed distributor and wholesale dealer shall at the time of filing  
2 that return pay the tax to the director. Failure to obtain such forms  
3 shall not be an excuse for the failure to make a return containing the  
4 information required by the director.

5  
6 3. (New section) a. There is imposed a tax upon the sale, use or  
7 distribution of moist snuff within this State by a distributor or  
8 wholesaler to a retail dealer or consumer at the rate of \$0.75 per  
9 ounce on the net weight, as listed by the manufacturer, of the moist  
10 snuff, and a proportionate rate on all fractional parts of an ounce of  
11 the net weight of moist snuff.

12 b. Unless a moist snuff product has already been or will be  
13 subject to the wholesale sales tax imposed in subsection a. of this  
14 section, if a distributor or wholesaler uses the moist snuff within  
15 this State, there is imposed upon the distributor or wholesaler a  
16 compensating use tax of \$0.75 per ounce on the net weight, as listed  
17 by the manufacturer, of the moist snuff, and a proportionate rate on  
18 all fractional parts of an ounce of the net weight of moist snuff.

19 c. Unless a wholesale use tax is due pursuant to subsection b. of  
20 this section, if a distributor or wholesaler has not paid the wholesale  
21 sales tax imposed in subsection a. of this section upon a sale that is  
22 subject to the wholesale sales tax imposed in that subsection a.,  
23 there is imposed upon the retail dealer or consumer chargeable for  
24 the sale a compensating use tax of \$0.75 per ounce on the net  
25 weight, as listed by the manufacturer, of the moist snuff, and a  
26 proportionate rate on all fractional parts of an ounce of the net  
27 weight of moist snuff, which shall be collected in the manner  
28 provided in subsection b. of section 5 of P.L.1990, c.39 (C.54:40B-  
29 5).

30  
31 4. Section 2 of P.L.1990, c.39 (C.54:40B-2) is amended to read  
32 as follows:

33 2. As used in sections 2 through 14 and section 20 of this act:

34 "Consumer" means a person except a distributor, manufacturer or  
35 wholesaler who acquires a tobacco product for consumption,  
36 storage or use in this State;

37 "Director" means the Director of the Division of Taxation in the  
38 Department of the Treasury;

39 "Distributor" means

40 a person engaged in the business of selling tobacco products in  
41 this State who brings, or causes to be brought into this State from  
42 without the State a tobacco product for sale within this State,

43 a person who makes or manufactures tobacco products in this  
44 State for sale in the State,

45 a person engaged in the business of selling tobacco products  
46 without this State who ships or transports tobacco products to a  
47 person in this State to be sold to a retail dealer, or

48 a person who receives tobacco products on which the tax has not  
49 or will not be paid by another distributor;

1       “Dry snuff” means any finely cut, ground or powdered  
2 smokeless tobacco that is intended to be sniffed through the nasal  
3 cavity, but does not include moist snuff;

4       "Manufacturer" means a person, wherever resident or located,  
5 who manufactures or produces, or causes to be manufactured or  
6 produced, a tobacco product and sells, uses, stores or distributes the  
7 product regardless of whether it is intended for sale, use or  
8 distribution within or without this State;

9       “Moist snuff” means any finely cut, ground or powdered  
10 smokeless tobacco that is intended to be placed or dipped in the oral  
11 cavity, but does not include dry snuff.

12       "Person" means an individual, firm, corporation, copartnership,  
13 joint venture, association, receiver, trustee, guardian, executor,  
14 administrator, or any other person acting in a fiduciary capacity, or  
15 an estate, trust or group or combination acting as a unit, the State  
16 Government and any political subdivision thereof, and the plural as  
17 well as the singular, unless the intention to give a more limited  
18 meaning is disclosed by the context;

19       "Place of business" means a place where a tobacco product is  
20 sold or where a tobacco product is brought or kept for the purpose  
21 of sale or consumption, including so far as may be applicable a  
22 vessel, vehicle, airplane, train or vending machine;

23       "Retail dealer" means a person who is engaged in this State in  
24 the business of selling any tobacco product at retail. A person  
25 placing a tobacco product vending machine at, or on any premises  
26 shall be deemed to be a retail dealer for each vending machine;

27       "Sale" means any sale, transfer, exchange, barter, or gift, in any  
28 manner or by any means whatsoever;

29       "Tobacco product" means any product containing any tobacco  
30 for personal consumption including, but not limited to, cigars, little  
31 cigars, cigarillos, chewing tobacco, pipe tobacco, smoking tobacco  
32 and their substitutes, and dry and moist snuff, but does not include  
33 cigarette as defined in section 102 of the "Cigarette Tax Act,"  
34 P.L.1948, c.65 (C.54:40A-1 et seq.);

35       "Treasurer" means the State Treasurer;

36       "Use" means the exercise of any right or power incidental to the  
37 ownership of a tobacco product, including a sale at retail; and

38       "Wholesale price" means the actual price for which a  
39 manufacturer sells tobacco products to a distributor;

40       "Wholesaler" means a person, wherever resident or located, other  
41 than a distributor as defined herein, who:

42       a. purchases tobacco products from any other person who  
43 purchases from the manufacturer and who acquires tobacco  
44 products solely for the purpose of bona fide resale to retail dealers  
45 or to other persons for the purposes of resale only; or

46       b. services retail outlets by the maintenance of an established  
47 place of business for the purchase of tobacco products including,  
48 but not limited to, the maintenance of warehousing facilities for the

1 storage and distribution of tobacco products.

2 (cf: P.L.2001, c.448, s.1)

3

4 5. Section 3 of P.L.1990, c.39 (C.54:40B-3) is amended to read  
5 as follows:

6 3. a. There is imposed a tax of 30% upon the wholesale price  
7 upon the sale, use or distribution of a tobacco product within this  
8 State, except that if the product is moist snuff, the tax shall be  
9 imposed as provided in section '[1] 3' of P.L. , c. (C. )  
10 (pending before the Legislature as this bill).

11 b. Unless a tobacco product has already been or will be subject  
12 to the wholesale sales tax imposed in subsection a. of this section, if  
13 a distributor or wholesaler uses a tobacco product within this State,  
14 there is imposed upon the distributor or wholesaler a compensating  
15 use tax of 30% measured by the sales price of a similar tobacco  
16 product to a distributor, except that if the product is moist snuff, the  
17 tax shall be imposed as provided in section '[1] 3' of  
18 P.L. , c. (C. ) (pending before the Legislature as this bill).

19 c. Unless a wholesale use tax is due pursuant to subsection b. of  
20 this section, if a distributor or wholesaler has not paid the wholesale  
21 sales tax imposed in subsection a. of this section upon a sale that is  
22 subject to the wholesale sales tax imposed in that subsection a.,  
23 there is imposed upon the retail dealer or consumer chargeable for  
24 the sale a compensating use tax of 30% of the price paid or charged  
25 for the tobacco product, except that if the product is moist snuff, the  
26 tax shall be imposed as provided in section '[1] 3' of  
27 P.L. , c. (C. ) (pending before the Legislature as this bill),  
28 which shall be collected in the manner provided in subsection b. of  
29 section 5 of this act.

30 (cf: P.L.2001, c.448, s.2)

31

32 6. (New section) Each retail dealer shall take a physical  
33 inventory of all moist snuff in that dealer's possession at the close  
34 of business on the last day of the first month following enactment or  
35 such other date as the director may prescribe, and shall file a return  
36 with the director in such form as the director may prescribe by the  
37 twentieth day of the third month following enactment, showing the  
38 amount of moist snuff in that dealer's possession and shall at the  
39 time of filing that return pay to the director the tax imposed  
40 pursuant to section 3 of P.L. , c. (C. ) (pending before the  
41 Legislature as this bill) that is in excess of any tax already paid  
42 pursuant to section 3 of P.L.1990, c.39 (C.54:40B-3) on that moist  
43 snuff as reflected on that return.

44

45 '7. Section 4 of P.L.1997, c.264 (C.26:2H-18.58g) is amended  
46 to read as follows:

47 4. Notwithstanding the provisions of any other law to the  
48 contrary,

1 a. commencing July 1, 1998 and ending June 30, 2006: after  
 2 the deposit required pursuant to section 5 of P.L.1982, c.40  
 3 (C.54:40A-37.1), the first \$150,000,000 of revenue collected  
 4 annually from the cigarette tax imposed pursuant to P.L.1948, c.65  
 5 (C.54:40A-1 et seq.) and the first \$5,000,000 of revenue collected  
 6 annually from the "Tobacco Products Wholesale Sales and Use Tax  
 7 Act," P.L.1990, c.39 (C.54:40B-1 et seq.), shall be deposited into  
 8 the Health Care Subsidy Fund established pursuant to section 8 of  
 9 P.L.1992, c.160 (C.26:2H-18.58); and the next \$390,000,000 of  
 10 revenue collected annually from the cigarette tax imposed pursuant  
 11 to P.L.1948, c.65 (C.54:40A-1 et seq.) shall be appropriated  
 12 annually for health programs, and the next \$50,000,000 of revenue  
 13 collected annually from the cigarette tax imposed pursuant to  
 14 P.L.1948, c.65 (C.54:40A-1 et seq.) shall be appropriated annually  
 15 to the New Jersey Economic Development Authority for payment of  
 16 debt service incurred by the authority for school facilities projects  
 17 and in fiscal years commencing July 1, 2002 and July 1, 2003, the  
 18 next \$30,000,000 of revenue collected annually from the cigarette  
 19 tax imposed pursuant to P.L.1948, c.65 (C.54:40A-1 et seq.) shall  
 20 be directed to the Department of Health and Senior Services to fund  
 21 anti-smoking initiatives, except that the amount shall be  
 22 \$40,000,000 in the fiscal year commencing July 1, 2004 and  
 23 \$45,000,000 in the fiscal year commencing July 1, 2005; and

24 b. commencing with fiscal years beginning on and after July 1,  
 25 2006, after the deposit required pursuant to section 5 of P.L.1982,  
 26 c.40 (C.54:40A-37.1), the first ~~[\$150,000,000]~~ \$365,000,000 of  
 27 revenue collected annually from the cigarette tax imposed pursuant  
 28 to P.L.1948, c.65 (C.54:40A-1 et seq.) and the first \$5,000,000 of  
 29 revenue collected annually from the "Tobacco Products Wholesale  
 30 Sales and Use Tax Act," P.L.1990, c.39 (C.54:40B-1 et seq.), shall  
 31 be deposited into the Health Care Subsidy Fund established  
 32 pursuant to section 8 of P.L.1992, c.160 (C.26:2H-18.58).<sup>1</sup>  
 33 (cf: P.L. 2004, c.68, s.8)

34  
 35 <sup>1</sup>~~[7.]~~ 8.<sup>1</sup> This act shall take effect July <sup>1</sup>~~[1]~~ 15<sup>1</sup>, 2006 and  
 36 sections 3 through 5 shall apply to sales, uses or distributions  
 37 occurring on or after the first day of the <sup>1</sup>~~[second]~~ first<sup>1</sup> month  
 38 following enactment.

39  
 40  
 41  
 42 \_\_\_\_\_  
 43 Raises cigarette tax rate 17½ cents per pack, changes tobacco  
 44 products wholesale sales tax on moist snuff to weight-based tax and  
 increases revenue dedication for Health Care Subsidy Fund.

# ASSEMBLY, No. 4705

## STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED JUNE 26, 2006

**Sponsored by:**  
**Assemblyman REED GUSCIORA**  
**District 15 (Mercer)**

### **SYNOPSIS**

Raises cigarette tax rate from \$2.40 to \$2.75 per pack and changes tobacco products wholesale sales tax on moist snuff to weight-based tax.

### **CURRENT VERSION OF TEXT**

As introduced.





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2

1 AN ACT raising the cigarette tax rate and changing the tobacco  
2 products wholesale sales tax on moist snuff to a weight-based  
3 tax, amending and supplementing P.L.1990, c.39 and P.L.1948,  
4 c.65.

5  
6 **BE IT ENACTED** by the Senate and General Assembly of the State  
7 of New Jersey:

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

11 301. Tax imposed; rate. A tax is hereby imposed on the sale, use  
12 or possession for sale or use within this State of all cigarettes at the  
13 rate of **[\$0.12]** \$0.1375 for each cigarette.

14 (cf: P.L.2004, c.67, s.1)

15

16 2. (New section) a. Each retail licensee under P.L.1948, c.65  
17 (C.54:40A-1 et seq.), shall, on or before the first day of the second  
18 month after the effective date of P.L. , c. (pending before the  
19 Legislature as this bill), file a return under oath or certified under  
20 the penalties of perjury with the director on forms furnished by the  
21 director, showing the amount of cigarettes in the retail licensee's  
22 possession in the State at 12:01 a.m. on the effective date of P.L. ,  
23 c. (pending before the Legislature as this bill), and shall at the  
24 time of filing that return pay the tax to the director. Failure to  
25 obtain such forms shall not be an excuse for the failure to make a  
26 return containing the information required by the director.

27 b. Notwithstanding the provisions of section 401 of P.L.1948,  
28 c.65 (C.54:40A-11) to the contrary, each licensed distributor and  
29 wholesale dealer under P.L.1948, c.65 (C.54:40A-1 et seq.), shall,  
30 on or before the first day of the second month after the effective  
31 date of P.L. , c. (pending before the Legislature as this bill), file  
32 a return under oath or certified under the penalties of perjury with  
33 the director on forms furnished by the director, showing the amount  
34 of cigarettes in the dealer's or wholesaler's possession in the State  
35 at the close of business prior to the effective date of P.L. , c.  
36 (pending before the Legislature as this bill). An amount of tax shall  
37 be due equal to the additional tax on the number of cigarettes  
38 bearing stamps, and unaffixed stamps on hand. Each licensed  
39 distributor and wholesale dealer shall at the time of filing that return  
40 pay the tax to the director. Failure to obtain such forms shall not be  
41 an excuse for the failure to make a return containing the  
42 information required by the director.

43

44 3. (New section) a. There is imposed a tax upon the sale, use or  
45 distribution of moist snuff within this State by a distributor or

**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 underlined thus is new matter.

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1 wholesaler to a retail dealer or consumer at the rate of \$0.75 per  
2 ounce on the net weight, as listed by the manufacturer, of the moist  
3 snuff, and a proportionate rate on all fractional parts of an ounce of  
4 the net weight of moist snuff.

5 b. Unless a moist snuff product has already been or will be  
6 subject to the wholesale sales tax imposed in subsection a. of this  
7 section, if a distributor or wholesaler uses the moist snuff within  
8 this State, there is imposed upon the distributor or wholesaler a  
9 compensating use tax of \$0.75 per ounce on the net weight, as listed  
10 by the manufacturer, of the moist snuff, and a proportionate rate on  
11 all fractional parts of an ounce of the net weight of moist snuff.

12 c. Unless a wholesale use tax is due pursuant to subsection b. of  
13 this section, if a distributor or wholesaler has not paid the wholesale  
14 sales tax imposed in subsection a. of this section upon a sale that is  
15 subject to the wholesale sales tax imposed in that subsection a.,  
16 there is imposed upon the retail dealer or consumer chargeable for  
17 the sale a compensating use tax of \$0.75 per ounce on the net  
18 weight, as listed by the manufacturer, of the moist snuff, and a  
19 proportionate rate on all fractional parts of an ounce of the net  
20 weight of moist snuff, which shall be collected in the manner  
21 provided in subsection b. of section 5 of P.L.1990, c.39 (C.54:40B-  
22 5).

23

24 4. Section 2 of P.L.1990, c.39 (C.54:40B-2) is amended to read  
25 as follows:

26 2. As used in sections 2 through 14 and section 20 of this act:

27 "Consumer" means a person except a distributor, manufacturer or  
28 wholesaler who acquires a tobacco product for consumption,  
29 storage or use in this State;

30 "Director" means the Director of the Division of Taxation in the  
31 Department of the Treasury;

32 "Distributor" means

33 a person engaged in the business of selling tobacco products in  
34 this State who brings, or causes to be brought into this State from  
35 without the State a tobacco product for sale within this State,

36 a person who makes or manufactures tobacco products in this  
37 State for sale in the State,

38 a person engaged in the business of selling tobacco products  
39 without this State who ships or transports tobacco products to a  
40 person in this State to be sold to a retail dealer, or

41 a person who receives tobacco products on which the tax has not  
42 or will not be paid by another distributor;

43 "Dry snuff" means any finely cut, ground or powdered  
44 smokeless tobacco that is intended to be sniffed through the nasal  
45 cavity, but does not include moist snuff;

46 "Manufacturer" means a person, wherever resident or located,  
47 who manufactures or produces, or causes to be manufactured or  
48 produced, a tobacco product and sells, uses, stores or distributes the

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4

1 product regardless of whether it is intended for sale, use or  
2 distribution within or without this State;

3 “Moist snuff” means any finely cut, ground or powdered  
4 smokeless tobacco that is intended to be placed or dipped in the oral  
5 cavity, but does not include dry snuff.

6 "Person" means an individual, firm, corporation, copartnership,  
7 joint venture, association, receiver, trustee, guardian, executor,  
8 administrator, or any other person acting in a fiduciary capacity, or  
9 an estate, trust or group or combination acting as a unit, the State  
10 Government and any political subdivision thereof, and the plural as  
11 well as the singular, unless the intention to give a more limited  
12 meaning is disclosed by the context;

13 "Place of business" means a place where a tobacco product is  
14 sold or where a tobacco product is brought or kept for the purpose  
15 of sale or consumption, including so far as may be applicable a  
16 vessel, vehicle, airplane, train or vending machine;

17 "Retail dealer" means a person who is engaged in this State in  
18 the business of selling any tobacco product at retail. A person  
19 placing a tobacco product vending machine at, or on any premises  
20 shall be deemed to be a retail dealer for each vending machine;

21 "Sale" means any sale, transfer, exchange, barter, or gift, in any  
22 manner or by any means whatsoever;

23 "Tobacco product" means any product containing any tobacco  
24 for personal consumption including, but not limited to, cigars, little  
25 cigars, cigarillos, chewing tobacco, pipe tobacco, smoking tobacco  
26 and their substitutes, and dry and moist snuff, but does not include  
27 cigarette as defined in section 102 of the "Cigarette Tax Act,"  
28 P.L.1948, c.65 (C.54:40A-1 et seq.);

29 "Treasurer" means the State Treasurer;

30 "Use" means the exercise of any right or power incidental to the  
31 ownership of a tobacco product, including a sale at retail; and

32 "Wholesale price" means the actual price for which a  
33 manufacturer sells tobacco products to a distributor;

34 "Wholesaler" means a person, wherever resident or located, other  
35 than a distributor as defined herein, who:

36 a. purchases tobacco products from any other person who  
37 purchases from the manufacturer and who acquires tobacco  
38 products solely for the purpose of bona fide resale to retail dealers  
39 or to other persons for the purposes of resale only; or

40 b. services retail outlets by the maintenance of an established  
41 place of business for the purchase of tobacco products including,  
42 but not limited to, the maintenance of warehousing facilities for the  
43 storage and distribution of tobacco products.

44 (cf: P.L.2001, c.448, s.1)

45

46 5. Section 3 of P.L.1990, c.39 (C.54:40B-3) is amended to read as  
47 follows:

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1       3. a. There is imposed a tax of 30% upon the wholesale price  
2 upon the sale, use or distribution of a tobacco product within this  
3 State, except that if the product is moist snuff, the tax shall be  
4 imposed as provided in section 1 of P.L. , c. (C. ) (pending  
5 before the Legislature as this bill).

6       b. Unless a tobacco product has already been or will be subject  
7 to the wholesale sales tax imposed in subsection a. of this section, if  
8 a distributor or wholesaler uses a tobacco product within this State,  
9 there is imposed upon the distributor or wholesaler a compensating  
10 use tax of 30% measured by the sales price of a similar tobacco  
11 product to a distributor, except that if the product is moist snuff, the  
12 tax shall be imposed as provided in section 1 of P.L. , c.  
13 (C. ) (pending before the Legislature as this bill).

14       c. Unless a wholesale use tax is due pursuant to subsection b. of  
15 this section, if a distributor or wholesaler has not paid the wholesale  
16 sales tax imposed in subsection a. of this section upon a sale that is  
17 subject to the wholesale sales tax imposed in that subsection a.,  
18 there is imposed upon the retail dealer or consumer chargeable for  
19 the sale a compensating use tax of 30% of the price paid or charged  
20 for the tobacco product, except that if the product is moist snuff, the  
21 tax shall be imposed as provided in section 1 of P.L. , c.  
22 (C. ) (pending before the Legislature as this bill), which shall  
23 be collected in the manner provided in subsection b. of section 5 of  
24 this act.

25 (cf: P.L.2001, c.448, s.2)

26

27       6. (New section) Each retail dealer shall take a physical  
28 inventory of all moist snuff in that dealer's possession at the close  
29 of business on the last day of the first month following enactment or  
30 such other date as the director may prescribe, and shall file a return  
31 with the director in such form as the director may prescribe by the  
32 twentieth day of the third month following enactment, showing the  
33 amount of moist snuff in that dealer's possession and shall at the  
34 time of filing that return pay to the director the tax imposed  
35 pursuant to section 3 of P.L. , c. (C. ) (pending before the  
36 Legislature as this bill) that is in excess of any tax already paid  
37 pursuant to section 3 of P.L.1990, c.39 (C.54:40B-3) on that moist  
38 snuff as reflected on that return.

39

40       7. This act shall take effect July 1, 2006 and sections 3 through  
41 5 shall apply to sales, uses or distributions occurring on or after the  
42 first day of the second month following enactment.

43

44

45

STATEMENT

46

47       This bill increases the cigarette tax rate by 35 cents per pack of  
48 20 cigarettes effective July 1, 2006. Presently, the State excise tax

**A4705 GUSCIORA**

1 on cigarettes is \$0.12 per cigarette, or \$2.40 per pack. This bill  
2 raises the tax to \$0.1375 per cigarette, or \$2.75 per pack.

3 This bill also creates a weight-based tax on moist snuff.  
4 Currently, moist snuff is taxed with other tobacco products at a rate  
5 of 30% of the wholesale price. With this new tax, moist snuff will  
6 be taxed based on weight rather than based on wholesale price. The  
7 new tax will be \$0.75 per ounce of moist snuff, with a proportionate  
8 tax rate for fractional amounts. The bill defines moist snuff as a  
9 product different from chewing tobacco and dry snuff.

10 The moist snuff market has recently seen a dramatic rise in the  
11 number of low-priced products. These products are considerably  
12 cheaper than premium-priced products and tend to be more attractive  
13 for youths to purchase. Because the current tax on moist snuff is  
14 assessed as a percentage of the price, the least expensive tobacco  
15 products are taxed the least. A weight-based tax on moist snuff will  
16 raise the tax on the least expensive products, thereby reducing youth  
17 access.

# ASSEMBLY BUDGET COMMITTEE

## STATEMENT TO

### **ASSEMBLY, No. 4705**

with Assembly committee amendments

# **STATE OF NEW JERSEY**

DATED: JULY 7, 2006

The Assembly Budget Committee reports favorably Assembly Bill No. 4705, with committee amendments.

Assembly Bill No. 4705, as amended, increases the cigarette tax rate by 17 ½ cents per pack of 20 cigarettes effective July 15, 2006. Presently, the State excise tax on cigarettes is \$0.12 per cigarette, or \$2.40 per pack. This bill raises the tax to \$0.12875 per cigarette, or \$2.575 per pack.

This bill also creates a weight-based tax on moist snuff. Currently, moist snuff is taxed with other tobacco products at a rate of 30% of the wholesale price. With this new tax, moist snuff will be taxed based on weight rather than based on wholesale price. The new tax will be \$0.75 per ounce of moist snuff, with a proportionate tax rate for fractional amounts and will apply to sales starting with the first month following enactment.

The moist snuff market has recently seen a dramatic rise in the number of low-priced products. These products are considerably cheaper than premium-priced products and tend to be more attractive for youths to purchase. Because the current tax on moist snuff is assessed as a percentage of the price, the least expensive tobacco products are taxed the least. A weight-based tax on moist snuff will raise the tax on the least expensive products, thereby reducing youth access.

The bill, as amended, also increases the annual revenue dedication for the Health Care Subsidy Fund from the first \$150 million in annual cigarette tax revenue collected to the first \$365 million collected.

As amended and reported, this bill is identical to Senate Bill No.1990 (Sca).

#### FISCAL IMPACT:

The annual revenue anticipated from this rate increase in cigarettes is \$30 million and the weight-based tax on moist snuff is anticipated to collect \$5 million annually for a total of \$35 million. The increase in cigarette tax revenue dedication to the Health Care Subsidy Fund will increase annual revenue deposited in that fund by \$215 million.

COMMITTEE AMENDMENTS:

The committee amendments reduce the cigarette tax rate increase from the proposed 35 cents per pack to 17½ cents per pack and add to the bill the provision for the increase in revenue dedicated to Health Care Subsidy Fund.

# SENATE, No. 1990

## STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED JUNE 26, 2006

**Sponsored by:**  
**Senator RAYMOND J. LESNIAK**  
**District 20 (Union)**

### **SYNOPSIS**

Changes tobacco products wholesale sales tax on moist snuff to a weight-based tax.

### **CURRENT VERSION OF TEXT**

As introduced.





S1990 LESNIAK

2

1 AN ACT changing the tobacco products wholesale sales tax on moist  
2 snuff to a weight-based tax, amending and supplementing  
3 P.L.1990, c.39, amending and supplementing P.L.1990, c.39.

4

5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7

8 1. (New section) a. There is imposed a tax upon the sale, use or  
9 distribution of moist snuff within this State by a distributor or  
10 wholesaler to a retail dealer or consumer at the rate of \$0.75 per  
11 ounce on the net weight, as listed by the manufacturer, of the moist  
12 snuff, and a proportionate rate on all fractional parts of an ounce of  
13 the net weight of moist snuff.

14 b. Unless a moist snuff product has already been or will be  
15 subject to the wholesale sales tax imposed in subsection a. of this  
16 section, if a distributor or wholesaler uses the moist snuff within  
17 this State, there is imposed upon the distributor or wholesaler a  
18 compensating use tax of \$0.75 per ounce on the net weight, as listed  
19 by the manufacturer, of the moist snuff, and a proportionate rate on  
20 all fractional parts of an ounce of the net weight of moist snuff.

21 c. Unless a wholesale use tax is due pursuant to subsection b. of  
22 this section, if a distributor or wholesaler has not paid the wholesale  
23 sales tax imposed in subsection a. of this section upon a sale that is  
24 subject to the wholesale sales tax imposed in that subsection a.,  
25 there is imposed upon the retail dealer or consumer chargeable for  
26 the sale a compensating use tax of \$0.75 per ounce on the net  
27 weight, as listed by the manufacturer, of the moist snuff, and a  
28 proportionate rate on all fractional parts of an ounce of the net  
29 weight of moist snuff, which shall be collected in the manner  
30 provided in subsection b. of section 5 of P.L.1990, c.39 (C.54:40B-  
31 5).

32

33 2. Section 2 of P.L.1990, c.39 (C.54:40B-2) is amended to read  
34 as follows:

35 2. As used in sections 2 through 14 and section 20 of this act:

36 "Consumer" means a person except a distributor, manufacturer or  
37 wholesaler who acquires a tobacco product for consumption,  
38 storage or use in this State;

39 "Director" means the Director of the Division of Taxation in the  
40 Department of the Treasury;

41 "Distributor" means

42 a person engaged in the business of selling tobacco products in  
43 this State who brings, or causes to be brought into this State from  
44 without the State a tobacco product for sale within this State,

**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 underlined thus is new matter.**

S1990 LESNIAK

1 a person who makes or manufactures tobacco products in this  
2 State for sale in the State,

3 a person engaged in the business of selling tobacco products  
4 without this State who ships or transports tobacco products to a  
5 person in this State to be sold to a retail dealer, or

6 a person who receives tobacco products on which the tax has not  
7 or will not be paid by another distributor;

8 “Dry snuff” means any finely cut, ground or powdered  
9 smokeless tobacco that is intended to be sniffed through the nasal  
10 cavity, but does not include moist snuff.

11 "Manufacturer" means a person, wherever resident or located,  
12 who manufactures or produces, or causes to be manufactured or  
13 produced, a tobacco product and sells, uses, stores or distributes the  
14 product regardless of whether it is intended for sale, use or  
15 distribution within or without this State;

16 “Moist snuff” means any finely cut, ground or powdered  
17 smokeless tobacco that is intended to be placed or dipped in the oral  
18 cavity, but does not include dry snuff.

19 "Person" means an individual, firm, corporation, copartnership,  
20 joint venture, association, receiver, trustee, guardian, executor,  
21 administrator, or any other person acting in a fiduciary capacity, or  
22 an estate, trust or group or combination acting as a unit, the State  
23 Government and any political subdivision thereof, and the plural as  
24 well as the singular, unless the intention to give a more limited  
25 meaning is disclosed by the context;

26 "Place of business" means a place where a tobacco product is  
27 sold or where a tobacco product is brought or kept for the purpose  
28 of sale or consumption, including so far as may be applicable a  
29 vessel, vehicle, airplane, train or vending machine;

30 "Retail dealer" means a person who is engaged in this State in  
31 the business of selling any tobacco product at retail. A person  
32 placing a tobacco product vending machine at, or on any premises  
33 shall be deemed to be a retail dealer for each vending machine;

34 "Sale" means any sale, transfer, exchange, barter, or gift, in any  
35 manner or by any means whatsoever;

36 "Tobacco product" means any product containing any tobacco  
37 for personal consumption including, but not limited to, cigars, little  
38 cigars, cigarillos, chewing tobacco, pipe tobacco, smoking tobacco  
39 and their substitutes, and dry and moist snuff, but does not include  
40 cigarette as defined in section 102 of the "Cigarette Tax Act,"  
41 P.L.1948, c.65 (C.54:40A-1 et seq.);

42 "Treasurer" means the State Treasurer;

43 "Use" means the exercise of any right or power incidental to the  
44 ownership of a tobacco product, including a sale at retail; and

45 "Wholesale price" means the actual price for which a  
46 manufacturer sells tobacco products to a distributor;

47 "Wholesaler" means a person, wherever resident or located, other  
48 than a distributor as defined herein, who:

S1990 LESNIAK

1 a. purchases tobacco products from any other person who  
2 purchases from the manufacturer and who acquires tobacco  
3 products solely for the purpose of bona fide resale to retail dealers  
4 or to other persons for the purposes of resale only; or

5 b. services retail outlets by the maintenance of an established  
6 place of business for the purchase of tobacco products including,  
7 but not limited to, the maintenance of warehousing facilities for the  
8 storage and distribution of tobacco products.

9 (cf: P.L.2001, c.448, s.1)

10

11 3. Section 3 of P.L.1990, c.39 (C.54:40B-3) is amended to read as  
12 follows:

13 3. a. There is imposed a tax of 30% upon the wholesale price  
14 upon the sale, use or distribution of a tobacco product within this  
15 State, except that if the product is moist snuff, the tax shall be  
16 imposed as provided in section 1 of P.L. , c. (C. ) (pending  
17 before the Legislature as this bill).

18 b. Unless a tobacco product has already been or will be subject  
19 to the wholesale sales tax imposed in subsection a. of this section, if  
20 a distributor or wholesaler uses a tobacco product within this State,  
21 there is imposed upon the distributor or wholesaler a compensating  
22 use tax of 30% measured by the sales price of a similar tobacco  
23 product to a distributor, except that if the product is moist snuff, the  
24 tax shall be imposed as provided in section 1 of  
25 P.L. , c. (C. ) (pending before the Legislature as this bill).

26 c. Unless a wholesale use tax is due pursuant to subsection b.  
27 of this section, if a distributor or wholesaler has not paid the  
28 wholesale sales tax imposed in subsection a. of this section upon a  
29 sale that is subject to the wholesale sales tax imposed in that  
30 subsection a., there is imposed upon the retail dealer or consumer  
31 chargeable for the sale a compensating use tax of 30% of the price  
32 paid or charged for the tobacco product, except that if the product is  
33 moist snuff, the tax shall be imposed as provided in section 1 of  
34 P.L. , c. (C. ) (pending before the Legislature as this bill),  
35 which shall be collected in the manner provided in subsection b. of  
36 section 5 of this act.

37 (cf: P.L.2001, c.448, s.2)

38

39 4. (New section) Each retail dealer shall take a physical  
40 inventory of all moist snuff in that dealer's possession at the close  
41 of business on the last day of the first month following enactment or  
42 such other date as the director may prescribe, and shall file a return  
43 with the director in such form as the director may prescribe by the  
44 twentieth day of the third month following enactment, showing the  
45 amount of moist snuff in that dealer's possession and shall at the  
46 time of filing that return pay to the director the tax imposed  
47 pursuant to section 1 of P.L. , c. (C. ) (pending before the  
48 Legislature as this bill) that is in excess of any tax already paid

1 pursuant to section 3 of P.L.1990, c.39 (C.54:40B-3) on that moist  
2 snuff as reflected on that return.

3

4 5. This act shall take effect immediately and shall apply to sales,  
5 uses or distributions occurring on or after the first day of the second  
6 month following enactment.

7

8

9

STATEMENT

10

11 This bill creates a weight-based tax on moist snuff. Currently,  
12 moist snuff is taxed with other tobacco products at a rate of 30% of  
13 the wholesale price. With this new tax, moist snuff will be taxed  
14 based on weight rather than based on wholesale price. The new tax  
15 will be \$0.75 per ounce of moist snuff, with a proportionate tax rate  
16 for fractional amounts.

17 The moist snuff market has recently seen a dramatic rise in the  
18 number of low-priced products. These products are considerably  
19 cheaper than premium-priced products and tend to be more attractive  
20 for youths to purchase. Because the current tax on moist snuff is  
21 assessed as a percentage of the price, the least expensive tobacco  
22 products are taxed the least. A weight-based tax on moist snuff will  
23 raise the tax on the least expensive products, thereby reducing youth  
24 access.

25 The bill defines moist snuff as a product different from chewing  
26 tobacco and dry snuff. The definition captures the practice of  
27 “dipping,” or placing the tobacco in the mouth so that is absorbed  
28 into the bloodstream, the common way moist snuff is used.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

### **SENATE, No. 1990**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JULY 7, 2006

The Senate Budget and Appropriations Committee reports favorably and with committee amendments Senate Bill No. 1990.

Senate Bill No. 1990, with committee amendments increases the cigarette tax rate by 17 ½ cents per pack of 20 cigarettes effective July 15, 2006. Presently, the State excise tax on cigarettes is \$0.12 per cigarette, or \$2.40 per pack. This bill raises the tax to \$0.12875 per cigarette, or \$2.575 per pack.

This bill also creates a weight-based tax on moist snuff. Currently, moist snuff is taxed with other tobacco products at a rate of 30% of the wholesale price. With this new tax, moist snuff will be taxed based on weight rather than based on wholesale price. The new tax will be \$0.75 per ounce of moist snuff, with a proportionate tax rate for fractional amounts and will apply to sales starting with the first month following enactment. The bill defines moist snuff as a product different from chewing tobacco and dry snuff.

The moist snuff market has recently seen a dramatic rise in the number of low-priced products. These products are considerably cheaper than premium-priced products and tend to be more attractive for youths to purchase. Because the current tax on moist snuff is assessed as a percentage of the price, the least expensive tobacco products are taxed the least. A weight-based tax on moist snuff will raise the tax on the least expensive products, thereby reducing youth access.

The bill also increases the annual revenue dedication for the Health Care Subsidy Fund from the first \$150 million in annual cigarette tax revenue collected to the first \$365 million collected.

As amended and reported this bill is identical to Assembly Bill No. 4705 (Aca).

#### COMMITTEE AMENDMENTS:

The committee amendments add the cigarette tax increase provisions and the increase in revenue dedicated to Health Care Subsidy Fund to the bill.

**FISCAL IMPACT:**

The annual revenue anticipated from this rate increase in cigarettes is \$30 million and the weight-based tax on moist snuff is anticipated to collect \$5 million annually for a total of \$35 million. The increase in cigarette tax revenue dedication to the Health Care Subsidy Fund will increase annual revenue deposited in that fund by \$215 million.