

"Smokers gag on new tobacco tax hikes," 7-2-2002 The Times p.A7
"Nicotine habit gets very taxing in NJ," 7-2-2002 The Press p. A1

P.L. 2002, CHAPTER 33, *approved July 1, 2002*
Assembly, No. 2504 (*First Reprint*)

1 AN ACT concerning the taxation of cigarettes ¹[and certain tobacco
2 products]¹, amending ¹[P.L.1990, c.39,]¹ P.L.1997, c.264 and
3 amending and supplementing P.L.1948, c.65.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. Section 301 of P.L.1948, c.65 (C.54:40A-8) is amended to read
9 as follows:

10 301. Tax imposed; rate. A tax is hereby imposed on the sale, use
11 or possession for sale or use within this State of all cigarettes at the
12 rate of [~~\$0.04~~] ¹[~~\$0.07~~] \$0.075¹ for each cigarette.
13 (cf: P.L.1997, c.264, s.1)

14
15 2. (New section) a. Each retail licensee under P.L.1948, c.65
16 (C.54:40A-1 et seq.), shall, on or before the first day of the second
17 month after the effective date of P.L. , c. (now pending before the
18 Legislature as this bill), file a return under oath or certified under the
19 penalties of perjury with the director on forms furnished by the
20 director, showing the amount of cigarettes in the retail licensee's
21 possession in the State at 12:01 a.m. on the effective date of P.L. ,
22 c. (now pending before the Legislature as this bill), and shall at the
23 time of filing that return pay the tax to the director. Failure to obtain
24 such forms shall not be an excuse for the failure to make a return
25 containing the information required by the director.

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

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:

¹ Assembly floor amendments adopted June 20, 2002.

1 director. Failure to obtain such forms shall not be an excuse for the
2 failure to make a return containing the information required by the
3 director.

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

7 3. a. There is imposed a tax of ~~[30%]~~ 48% upon the wholesale
8 price upon the sale, use or distribution of a tobacco product within this
9 State, except that the rate of tax imposed upon the wholesale price
10 upon the sale, use or distribution of a cigar, little cigar or cigarillo
11 shall be 30%.

12 b. Unless a tobacco product has already been or will be subject to
13 the wholesale sales tax imposed in subsection a. of this section, if a
14 distributor or wholesaler uses a tobacco product within this State,
15 there is imposed upon the distributor or wholesaler a compensating
16 use tax of ~~[30%]~~ 48% measured by the sales price of a similar tobacco
17 product to a distributor, except that a compensating use tax imposed
18 upon the distributor or wholesaler for the use of a cigar, little cigar or
19 cigarillo shall be 30% measured by the sales price of a similar tobacco
20 product to a distributor.

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., there
25 is imposed upon the retail dealer or consumer chargeable for the sale
26 a compensating use tax of ~~[30%]~~ 48% of the price paid or charged for
27 the tobacco product, except that a compensating use tax imposed upon
28 the retail dealer or consumer chargeable for the sale of a cigar, little
29 cigar or cigarillo shall be 30% of the price paid or charged for the
30 tobacco product, which shall be collected in the manner provided in
31 subsection b. of section 5 of this act.

32 (cf: P.L.2001, c.448, s.2)]¹

33
34 ¹[4.] 3.¹ Section 4 of P.L.1997, c.264 (C.26:2H-18.58g) is
35 amended to read as follows:

36 4. Notwithstanding the provisions of any other law to the
37 contrary, commencing July 1, 1998: after the deposit required
38 pursuant to section 5 of P.L.1982, c.40 (C.54:40A-37.1), the first
39 \$150,000,000 of revenue collected annually from the cigarette tax
40 imposed pursuant to P.L.1948, c.65 (C.54:40A-1 et seq.) and the first
41 \$5,000,000 of revenue collected annually from the "Tobacco Products
42 Wholesale Sales and Use Tax," P.L.1990, c.39 (C.54:40B-1 et seq.),
43 shall be deposited in to the Health Care Subsidy Fund established
44 pursuant to section 8 of P.L.1992, c.160 (C.26:2H-18.58); and the
45 next \$200,000,000 of revenue collected annually from the cigarette tax
46 imposed pursuant to P.L.1948, c.65 (C.54:40A-1 et seq.) shall be

1 appropriated annually for health programs, and the next \$50,000,000
2 of revenue collected annually from the cigarette tax imposed pursuant
3 to P.L.1948, c.65 (C.54:40A-1 et seq.) shall be appropriated annually
4 to the New Jersey Economic Development Authority for payment of
5 debt service incurred by the authority for school facilities projects and
6 in fiscal years commencing July 1, 2002 and July 1, 2003, the next
7 \$30,000,000 of revenue collected annually from the cigarette tax
8 imposed pursuant to P.L.1948, c.65 (C.54:40A-1 et seq.) shall be
9 directed to the Department of Health and Senior Services to fund anti-
10 smoking initiatives, except that the amount shall be \$40,000,000 in the
11 fiscal year commencing July 1, 2004 and \$45,000,000 in fiscal years
12 commencing July 1, 2005 and thereafter.

13 (cf: P.L.2000, c.72, s.56)

14

15 ¹[5.] 4.¹ This act shall take effect July 1, 2002 ¹[and section 3
16 shall apply to tobacco products sold or otherwise disposed of on or
17 after that date, except for those tobacco products for which the tax
18 was paid prior to the effective date]¹.

19

20

21

22

23 _____
Increases the cigarette tax by 70 cents per pack.

ASSEMBLY, No. 2504

STATE OF NEW JERSEY 210th LEGISLATURE

INTRODUCED JUNE 6, 2002

Sponsored by:

Assemblywoman LORETTA WEINBERG

District 37 (Bergen)

SYNOPSIS

Increases the cigarette tax by 60 cents per pack and increases the tobacco products wholesale sales and use tax rate on products other than cigars from 30% to 48%.

CURRENT VERSION OF TEXT

As introduced.



A2504 WEINBERG

2

1 AN ACT concerning the taxation of cigarettes and certain tobacco
2 products, amending P.L.1990, c.39, P.L.1997, c.264 and amending
3 and supplementing P.L.1948, c.65.

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5 **BE IT ENACTED** by the Senate and General Assembly of the State
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9 as follows:

10 301. Tax imposed; rate. A tax is hereby imposed on the sale, use
11 or possession for sale or use within this State of all cigarettes at the
12 rate of **[\$0.04]** \$0.07 for each cigarette.
13 (cf: P.L.1997, c.264, s.1)

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

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

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2 3. a. There is imposed a tax of ~~[30%]~~ 48% upon the wholesale
3 price upon the sale, use or distribution of a tobacco product within this
4 State, except that the rate of tax imposed upon the wholesale price
5 upon the sale, use or distribution of a cigar, little cigar or cigarillo
6 shall be 30%.

7 b. Unless a tobacco product has already been or will be subject to
8 the wholesale sales tax imposed in subsection a. of this section, if a
9 distributor or wholesaler uses a tobacco product within this State,
10 there is imposed upon the distributor or wholesaler a compensating
11 use tax of ~~[30%]~~ 48% measured by the sales price of a similar tobacco
12 product to a distributor, except that a compensating use tax imposed
13 upon the distributor or wholesaler for the use of a cigar, little cigar or
14 cigarillo shall be 30% measured by the sales price of a similar tobacco
15 product to a distributor.

16 c. Unless a wholesale use tax is due pursuant to subsection b. of
17 this section, if a distributor or wholesaler has not paid the wholesale
18 sales tax imposed in subsection a. of this section upon a sale that is
19 subject to the wholesale sales tax imposed in that subsection a., there
20 is imposed upon the retail dealer or consumer chargeable for the sale
21 a compensating use tax of ~~[30%]~~ 48% of the price paid or charged for
22 the tobacco product, except that a compensating use tax imposed upon
23 the retail dealer or consumer chargeable for the sale of a cigar, little
24 cigar or cigarillo shall be 30% of the price paid or charged for the
25 tobacco product, which shall be collected in the manner provided in
26 subsection b. of section 5 of this act.

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

28

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

31 4. Notwithstanding the provisions of any other law to the
32 contrary, commencing July 1, 1998: after the deposit required
33 pursuant to section 5 of P.L.1982, c.40 (C.54:40A-37.1), the first
34 \$150,000,000 of revenue collected annually from the cigarette tax
35 imposed pursuant to P.L.1948, c.65 (C.54:40A-1 et seq.) and the first
36 \$5,000,000 of revenue collected annually from the "Tobacco Products
37 Wholesale Sales and Use Tax," P.L.1990, c.39 (C.54:40B-1 et seq.),
38 shall be deposited in to the Health Care Subsidy Fund established
39 pursuant to section 8 of P.L.1992, c.160 (C.26:2H-18.58); and the
40 next \$200,000,000 of revenue collected annually from the cigarette tax
41 imposed pursuant to P.L.1948, c.65 (C.54:40A-1 et seq.) shall be
42 appropriated annually for health programs, and the next \$50,000,000
43 of revenue collected annually from the cigarette tax imposed pursuant
44 to P.L.1948, c.65 (C.54:40A-1 et seq.) shall be appropriated annually
45 to the New Jersey Economic Development Authority for payment of
46 debt service incurred by the authority for school facilities projects and

1 in fiscal years commencing July 1, 2002 and July 1, 2003, the next
2 \$30,000,000 of revenue collected annually from the cigarette tax
3 imposed pursuant to P.L.1948, c.65 (C.54:40A-1 et seq.) shall be
4 directed to the Department of Health and Senior Services to fund anti-
5 smoking initiatives, except that the amount shall be \$40,000,000 in the
6 fiscal year commencing July 1, 2004 and \$45,000,000 in fiscal years
7 commencing July 1, 2005 and thereafter.

8 (cf: P.L.2000, c.72, s.56)

9
10 5. This act shall take effect July 1, 2002 and section 3 shall apply
11 to tobacco products sold or otherwise disposed of on or after that
12 date, except for those tobacco products for which the tax was paid
13 prior to the effective date.

14
15
16 STATEMENT

17
18 This bill increases the cigarette tax rate by 60 cents per pack of 20
19 cigarettes effective July 1, 2002. Currently, the State excise tax on
20 cigarettes is \$0.04 per cigarette, or 80 cents per pack. This bill
21 increases the tax to \$0.07 per cigarette, or \$1.40 per pack. This bill
22 also increases the tobacco products wholesale sales and use tax rate
23 from 30% to 48% on tobacco products other than cigars. The bill
24 restores upon chewing tobacco, pipe tobacco, smoking tobacco and
25 their substitutes, and upon snuff, the tax rate of 48% that was imposed
26 upon all tobacco products other than cigarettes before the recent
27 enactment of P.L.2001, c.448 which took effect March 1, 2002.

28 An additional \$200 million in cigarette tax revenue is directed to
29 be appropriated annually for health programs. Also, \$30 million in
30 increased cigarette tax revenue anticipated annually under this bill is
31 directed to the Department of Health and Senior Services to support
32 anti-smoking programs for fiscal years 2003 and 2004. That amount
33 is increased to \$40 million for fiscal year 2005 and \$45 million in fiscal
34 year 2006 and for fiscal years thereafter.

ASSEMBLY BUDGET COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2504

STATE OF NEW JERSEY

DATED: JUNE 10, 2002

The Assembly Budget Committee reports favorably Assembly Bill No. 2504.

Assembly Bill No. 2504 increases the cigarette tax rate by 60 cents per pack of 20 cigarettes, effective July 1, 2002. Currently, the State excise tax on cigarettes is \$0.04 per cigarette, or \$.80 per pack. This bill increases the tax to \$0.07 per cigarette, or \$1.40 per pack. The bill also increases the tobacco products wholesale sales and use tax rate from 30% to 48% on tobacco products other than cigars. Thus the bill restores for chewing tobacco, pipe tobacco, smoking tobacco and their substitutes, and for snuff, the tax rate of 48% that applied to all tobacco products other than cigarettes before the enactment of P.L.2001, c.448, which took effect March 1, 2002.

Under the bill, an additional \$200 million in cigarette tax revenue is directed to be appropriated annually for health programs. Also, \$30 million in increased cigarette tax revenue anticipated annually under this bill is directed to the Department of Health and Senior Services to support anti-smoking programs for fiscal years 2003 and 2004. That annual amount is increased to \$40 million for fiscal year 2005 and \$45 million for fiscal year 2006 and thereafter.

FISCAL IMPACT

Cigarette tax. The Office of Legislative Services (OLS) estimates that this bill will increase cigarette tax revenues to the State General Fund by \$220 million to \$240 million in FY2003. Thereafter, revenues will decline at a rate of about 2.5 percent each year, following recent patterns of declining cigarette usage. Based on historic patterns relating price increases to cigarette sales, the OLS estimates that the 60 cent rate increase will reduce sales by from 6 to 9 percent. The net impact of the higher tax rate and lower sales is an increase in tax revenue of from \$215 million to \$235 million. In addition, the increased price of cigarettes following the tax rate increase in this bill will have the effect of increasing sales tax revenues by an amount that the OLS estimates at about \$5 million.

Tobacco products wholesale sales and use tax. The increase in the tobacco products wholesale tax under this bill partially mirrors the reduction in that tax under P.L.2001, c.448, so that the fiscal analysis of that enactment can serve as a reference point for estimating the

impact of this bill. In its review of the 2001 legislation, the Office of Management and Budget in the Department of the Treasury estimated the reduction in tax revenue under that bill at between \$7.5 and \$10.5 million annually. Of that overall impact, roughly one-third was attributable to the replacement of a price base that does not include the distributor's markup for one that does. Factoring out that source of revenue impact from the earlier estimate (since the taxable price base is not changed under this substitute bill) suggests a preliminary estimate of \$5 to \$7 million as the amount of increased annual revenue that would result under the substitute. This estimate should be reduced further to reflect the substitute's exemption of cigars from the tax increase. Unfortunately, the records of the Division of Taxation do not segment tobacco products wholesale tax revenue by product category, so that there is no reliable basis for estimating the amount of that reduction. If, however, cigars account for one-half of the dollar volume of non-cigarette tobacco sales, the tobacco products tax increase under the bill would yield between \$2.5 million and \$3.5 million annually.

STATEMENT TO
ASSEMBLY, No. 2504

with Assembly Floor Amendments
(Proposed By Assemblywoman WEINBERG)

ADOPTED: JUNE 20, 2002

This amendment revises the increase in the cigarette tax rate under this bill from 60 cents per pack of 20 cigarettes to 70 cents per pack, thus increasing the total amount of the tax to \$1.50 per pack. This amendment also eliminates the proposed tax rate increase on tobacco products other than cigarettes.

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY, No. 2504
STATE OF NEW JERSEY
210th LEGISLATURE

DATED: JULY 16, 2002

SUMMARY

Synopsis: Increases the cigarette tax by 60 cents per pack and increases the tobacco products wholesale sales and use tax rate on products other than cigars from 30 percent to 48 percent.

Type of Impact: Annual increase in revenue to the State General Fund.

Agencies Affected: Department of the Treasury and the Department of Health and Senior Services.

Office of Legislative Services Estimate

Fiscal Impact	<u>FY 2003</u>	<u>FY 2004</u>	<u>FY 2005</u>
State Revenue	\$220,000,000 to 240,000,000	\$215,000,000 to 235,000,000	\$210,000,000 to 230,000,000

- ! The Office of Legislative Services (OLS) estimates that this bill will increase State General Fund revenues by between \$220 million and \$240 million in FY 2003. Thereafter, revenues will decline at a rate of about 2.5 percent each year, following recent patterns of declining cigarette usage.
- ! The Governor's FY 2003 Budget includes an estimate that a 50 cent per pack increase in the cigarette tax (10 cents less than the amount in this bill) would yield a net increase of \$200 million in General Fund revenue.
- ! The bill also directs that \$230 million in cigarette tax revenues (growing to \$245 million by FY 2005) be applied to health programs and anti-smoking programs. These amounts may or may not be in addition to current appropriations for such programs.
- ! Under the bill, total appropriations dedicated or directed for specific purposes should increase to \$435 million in FY 2003. Total cigarette tax and tobacco product tax revenues supporting these appropriations should exceed \$580 million under the bill.

BILL DESCRIPTION

Assembly Bill No.2504 of 2002 increases the cigarette tax rate by 60 cents per pack of 20 cigarettes effective July 1, 2002. Currently, the State excise tax on cigarettes is \$0.04 per

cigarette, or 80 cents per pack. This bill increases the tax to \$0.07 per cigarette, or \$1.40 per pack. This bill also increases the tobacco products wholesale sales and use tax rate from 30 percent to 48 percent on tobacco products other than cigars. The bill restores the 48 percent tax rate upon chewing tobacco, pipe tobacco, smoking tobacco and their substitutes, and upon snuff that was imposed upon all tobacco products other than cigarettes before the recent enactment of P.L.2001, c.448 which took effect March 1, 2002.

An additional \$200 million in cigarette tax revenue is directed to be appropriated annually for health programs. Also, \$30 million in increased cigarette tax revenue anticipated annually under this bill is directed to the Department of Health and Senior Services to support anti-smoking programs for fiscal years 2003 and 2004. That amount is increased to \$40 million for fiscal year 2005 and \$45 million in fiscal year 2006 and for fiscal years thereafter.

FISCAL ANALYSIS

EXECUTIVE BRANCH

The Department of the Treasury has not prepared a formal fiscal estimate for this bill. However, the FY 2003 Budget includes an estimate that a 50 cent per pack increase in the cigarette tax (10 cents less than the amount in this bill) would yield a net increase of \$200 million in General Fund revenue in FY 2003.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services (OLS) estimates that this bill will increase State General Fund revenues by between \$220 million and \$240 million in FY 2003. Thereafter, revenues will decline at a rate of about 2.5 percent each year, following recent patterns of declining cigarette usage. Based on historic patterns relating price increases with cigarette sales, the OLS estimates that the 50 cent rate increase in this bill will reduce sales by between 6.0 and 9.0 percent. The net impact of the higher tax rate and lower sales is an increase in tax revenue of between \$215 million and \$235 million. The OLS notes that, without a loss in sales, total cigarette tax revenues would increase by about \$270 million. In addition, the increased price of cigarettes following the tax rate increase in this bill will have an impact on sales tax revenues. The OLS estimates an increase in sales tax revenue of about \$5 million.

Any fiscal impact from the increase in the tobacco products wholesale sales and use tax rate from 30 percent to 48 percent on tobacco products other than cigars should be relatively minimal compared to the other portions of the bill. The actual impact cannot be determined as New Jersey data on the level of non-cigar tobacco product tax revenue is not available. The impact of the tax change on *all* tobacco products has been previously estimated at about \$5 million, with the non-cigar portion some unknown share thereof.

The bill also directs that \$230 million in cigarette tax revenues (growing to \$245 million by FY 2005) be applied to health programs and anti-smoking programs. These amounts may or may not be in addition to current appropriations for such programs. Current law already designates \$155 million in cigarette tax and tobacco products tax revenue be deposited into the Health Care Subsidy Fund and that \$50 million be appropriated to support debt service for school facilities projects. Accordingly, total dedications and directions for these revenues would increase to

\$435 million in FY 2003 under this bill. Existing cigarette and tobacco product revenues (both "on-budget" and "off-budget") plus the new revenues under this bill should exceed \$580 million in FY 2003.

Section: *Revenue, Finance and Appropriations*

Analyst: *Martin Poethke*
Senior Fiscal Analyst

Approved: *Alan R. Kooney*
Legislative Budget and Finance Officer

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.