

54:40A-8

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2003 **CHAPTER:** 115

NJSA: 54:40A-8 (Cigarette tax increase)

BILL NO: A3711 (Substituted for S2666)

SPONSOR(S): Diegnan

DATE INTRODUCED: June 16, 2003

COMMITTEE: **ASSEMBLY:** Budget

SENATE: ---

AMENDED DURING PASSAGE: No

DATE OF PASSAGE: **ASSEMBLY:** June 30, 2003

SENATE: June 30, 2003

DATE OF APPROVAL: July 1, 2003

FOLLOWING ARE ATTACHED IF AVAILABLE:

[FINAL TEXT OF BILL](#) (Assembly Committee Substitute enacted)

A3711

[SPONSORS STATEMENT:](#) (Begins on page 3 of original bill) [Yes](#)

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

SENATE: No

FLOOR AMENDMENT STATEMENTS: No

[LEGISLATIVE FISCAL ESTIMATE:](#) [Yes](#)

S2666

[SPONSORS STATEMENT:](#) (Begins on page 3 of original bill) [Yes](#)

Bill and Sponsors Statement identical to A3711

COMMITTEE STATEMENT: **ASSEMBLY:** No

SENATE: [Yes](#)

FLOOR AMENDMENT STATEMENTS: No

LEGISLATIVE FISCAL ESTIMATE: No

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext. 103 or <mailto:refdesk@njstatelib.org>.

REPORTS:

No

HEARINGS:

No

NEWSPAPER ARTICLES:

Yes

"New budget's tax the latest drag on NJ smokers," 7-2-2003 Asbury Park Press, pA16.

"Smokers targeted with taxes again," 7-7-2003 Bucks County Times, p.6C

"Smokers to pay more," 7-2-2003 Courier Post, p3A

P.L. 2003, CHAPTER 115, *approved July 1, 2003*
Assembly Committee Substitute for
Assembly, No. 3711

1 **AN ACT** concerning the taxation of cigarettes, amending P.L.1997,
2 c.264 and amending and supplementing P.L.1948, c.65.

3

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

6

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

9 301. Tax imposed; rate. A tax is hereby imposed on the sale, use
10 or possession for sale or use within this State of all cigarettes at the
11 rate of [~~\$0.075~~] \$0.1025 for each cigarette.

12 (cf: P.L.2002, c.33, s.1)

13

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

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

1 failure to make a return containing the information required by the
2 director.

3

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

6 4. Notwithstanding the provisions of any other law to the
7 contrary, commencing July 1, 1998: after the deposit required
8 pursuant to section 5 of P.L.1982, c.40 (C.54:40A-37.1), the first
9 \$150,000,000 of revenue collected annually from the cigarette tax
10 imposed pursuant to P.L.1948, c.65 (C.54:40A-1 et seq.) and the first
11 \$5,000,000 of revenue collected annually from the "Tobacco Products
12 Wholesale Sales and Use Tax," P.L.1990, c.39 (C.54:40B-1 et seq.),
13 shall be deposited into the Health Care Subsidy Fund established
14 pursuant to section 8 of P.L.1992, c.160 (C.26:2H-18.58); and the
15 next [~~\$200,000,000~~] \$390,000,000 of revenue collected annually from
16 the cigarette tax imposed pursuant to P.L.1948, c.65 (C.54:40A-1 et
17 seq.) shall be appropriated annually for health programs, and the next
18 \$50,000,000 of revenue collected annually from the cigarette tax
19 imposed pursuant to P.L.1948, c.65 (C.54:40A-1 et seq.) shall be
20 appropriated annually to the New Jersey Economic Development
21 Authority for payment of debt service incurred by the authority for
22 school facilities projects and in fiscal years commencing July 1, 2002
23 and July 1, 2003, the next \$30,000,000 of revenue collected annually
24 from the cigarette tax imposed pursuant to P.L.1948, c.65
25 (C.54:40A-1 et seq.) shall be directed to the Department of Health and
26 Senior Services to fund anti-smoking initiatives, except that the
27 amount shall be \$40,000,000 in the fiscal year commencing July 1,
28 2004 and \$45,000,000 in fiscal years commencing July 1, 2005 and
29 thereafter.

30 (cf: P.L.2002, c.33, s.3)

31

32 4. This act shall take effect July 1, 2003.

33

34

35

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37 _____
38 Increases the cigarette tax by 55 cents per pack; redirects additional
39 \$190 million annually to health related programs beginning in FY
2004.

ASSEMBLY, No. 3711

STATE OF NEW JERSEY 210th LEGISLATURE

INTRODUCED JUNE 16, 2003

Sponsored by:
Assemblyman PATRICK DIEGNAN, JR.
District 18 (Middlesex)

SYNOPSIS

Increases the cigarette tax by 55 cents per pack; redirects additional \$140 million annually to health related programs beginning in FY 2004.

CURRENT VERSION OF TEXT

As introduced.



A3711 DIEGNAN

2

1 AN ACT concerning the taxation of cigarettes, amending P.L.1997,
2 c.264 and amending and supplementing P.L.1948, c.65.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. Section 301 of P.L.1948, c.65 (C.54:40A-8) is amended to read
8 as follows:

9 301. Tax imposed; rate. A tax is hereby imposed on the sale, use
10 or possession for sale or use within this State of all cigarettes at the
11 rate of [~~\$0.075~~] \$0.1025 for each cigarette.

12 (cf: P.L.2002, c.33, s.1)

13

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

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

41

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

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.

1 4. Notwithstanding the provisions of any other law to the
2 contrary, commencing July 1, 1998: after the deposit required
3 pursuant to section 5 of P.L.1982, c.40 (C.54:40A-37.1), the first
4 \$150,000,000 of revenue collected annually from the cigarette tax
5 imposed pursuant to P.L.1948, c.65 (C.54:40A-1 et seq.) and the first
6 \$5,000,000 of revenue collected annually from the "Tobacco Products
7 Wholesale Sales and Use Tax," P.L.1990, c.39 (C.54:40B-1 et seq.),
8 shall be deposited into the Health Care Subsidy Fund established
9 pursuant to section 8 of P.L.1992, c.160 (C.26:2H-18.58); and the
10 next [~~\$200,000,000~~] \$340,000,000 of revenue collected annually from
11 the cigarette tax imposed pursuant to P.L.1948, c.65 (C.54:40A-1 et
12 seq.) shall be appropriated annually for health programs, and the next
13 \$50,000,000 of revenue collected annually from the cigarette tax
14 imposed pursuant to P.L.1948, c.65 (C.54:40A-1 et seq.) shall be
15 appropriated annually to the New Jersey Economic Development
16 Authority for payment of debt service incurred by the authority for
17 school facilities projects and in fiscal years commencing July 1, 2002
18 and July 1, 2003, the next \$30,000,000 of revenue collected annually
19 from the cigarette tax imposed pursuant to P.L.1948, c.65
20 (C.54:40A-1 et seq.) shall be directed to the Department of Health and
21 Senior Services to fund anti-smoking initiatives, except that the
22 amount shall be \$40,000,000 in the fiscal year commencing July 1,
23 2004 and \$45,000,000 in fiscal years commencing July 1, 2005 and
24 thereafter.

25 (cf: P.L.2002, c.33, s.3)

26

27 4. This act shall take effect July 1, 2003.

28

29

30

STATEMENT

31

32 This bill increases the cigarette tax rate by 55 cents per pack of 20
33 cigarettes effective July 1, 2003. Currently, the State excise tax on
34 cigarettes is \$0.075 per cigarette, or \$1.50 per pack. This bill
35 increases the tax to \$0.1025 per cigarette, or \$2.05 per pack.

36 This bill directs an additional \$140 million in cigarette tax revenue
37 to health programs, increasing the total amount of cigarette tax
38 revenue directed to health programs from \$200 million annually to
39 \$340 million annually.

ASSEMBLY BUDGET COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY, No. 3711

STATE OF NEW JERSEY

DATED: JUNE 19, 2003

The Assembly Budget Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 3711.

This Assembly Committee Substitute for Assembly Bill No. 3711 increases the cigarette tax rate by 55 cents per pack of 20 cigarettes effective July 1, 2003. Currently, the State excise tax on cigarettes is \$0.075 per cigarette, or \$1.50 per pack. This bill increases the tax to \$0.1025 per cigarette, or \$2.05 per pack.

This substitute directs an additional \$190 million in cigarette tax revenue to health programs, increasing the total amount of cigarette tax revenue directed to health programs from \$200 million annually to \$390 million annually.

FISCAL IMPACT:

According to information supplied by the Executive Branch, this bill could increase revenues by \$190 million.

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 3711
STATE OF NEW JERSEY
210th LEGISLATURE

DATED: JUNE 27, 2003

SUMMARY

- Synopsis:** Increases the cigarette tax by 55 cents per pack; redirects additional \$190 million annually to health related programs beginning in FY 2004.
- Type of Impact:** Annual Increase in General Fund Revenues. Increased requirement for certain annual appropriations.
- Agencies Affected:** Department of the Treasury; Department of Health and Senior Services.

Office of Legislative Services Estimate

Fiscal Impact	FY 2004	FY 2005	FY 2006
State Revenue	\$179,000,000	\$175,000,000	\$172,000,000

- ! The Office of Legislative Services estimates that this bill will increase cigarette tax revenues by \$179 million in FY 2004, \$175 million in FY 2005, and \$172 million in FY 2006.
- ! The tax change in this bill equals a rate increase of about 37.0 percent, but an estimated 8.0 percent sales decline reduces the net impact of the tax change to a 29.0 percent revenue increase in FY 2004.
- ! The Office of Legislative Services also notes that the various dedications of cigarette tax funds, including the additional \$190 million dedication in this bill, will remain within the total collections of this tax.

BILL DESCRIPTION

Assembly Committee Substitute for Assembly Bill No. 3711 of 2003 increases the cigarette tax rate by 55 cents per pack of 20 cigarettes effective July 1, 2003. Currently, the State excise tax on cigarettes is \$0.075 per cigarette, or \$1.50 per pack. This bill increases the tax to \$0.1025 per cigarette, or \$2.05 per pack. This bill also directs an additional \$190 million in cigarette tax revenue to health programs, increasing the total amount of cigarette tax revenue directed to health programs from \$200 million annually to \$390 million annually.

FISCAL ANALYSIS

EXECUTIVE BRANCH

The Executive has not provided an estimate of the \$0.55 per pack tax increase under this bill. However, in May the Treasurer provided the legislative budget committees revenue estimates for FY 2003 and FY 2004 that anticipated cigarette tax revenue growth of \$122 million following a proposed \$0.40 per pack cigarette tax increase.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services (OLS) estimates that this bill will increase cigarette tax revenues by \$179 million in FY 2004, \$175 million in FY 2005, and \$172 million in FY 2006. Annual revenues should continue to decline by about 2.0 percent in future years, following national patterns of declining cigarette sales. The table below displays the estimate in greater detail, including placing the increase in the context of total cigarette tax collections and the portion dedicated to the Health Care Subsidy Fund (HCSF).

Estimated Impact of A-3711				
<i>\$ in Millions</i>				
	FY 2003	FY 2004	FY 2005	FY 2006
Baseline Revenue	\$620	\$608	\$596	\$584
\$0.55 Tax Increase	--	\$179	\$175	\$172
<i>Tax Increase Percent</i>	--	29%	--	--
Total Cigarette Revenue	\$620	\$787	\$771	\$756
<i>Annual Percent Growth</i>	--	27%	-2%	-2%
HCSF Dedication	\$155	\$155	\$155	\$155
On-Budget Share	\$465	\$632	\$616	\$601
Baseline revenues assume an annual 2% decline in consumption.				

The OLS estimate is based on a series of assumptions. Cigarette price elasticity is commonly estimated at about -0.4, which means that a 10.0 percent price increase would result in a 4.0 percent sales decline. The \$0.55 tax rate increase in this bill amounts to an estimated price increase of approximately 14.0 percent, which would trigger a sales decline of about 6.0 percent. The OLS assumes an additional 2.0 percent sales decline due to the relative ease with which New Jersey residents may purchase cigarettes out of state. The total estimated sales decline under the bill is 8.0 percent (6.0 + 2.0 = 8.0).

The tax change in this bill equals a rate increase of about 37.0 percent, but the estimated 8.0 percent sales decline, discussed above, reduces the net impact of the tax change to a 29.0 percent revenue increase in FY 2004, or \$179 million greater than the estimated \$608 million cigarette tax baseline. The amount attributable to the tax revenue increase is estimated to decline by 2.0 percent annually, along with the long-run trend in declining cigarette sales.

The OLS also notes that the various dedications of cigarette tax funds, including the additional \$190 million dedication in this bill, will remain within the total collections of the cigarette tax. In FY 2004 it is estimated that under this bill the tax would raise a total of \$787

million. Of that amount, the first \$155 million is dedicated to the off-budget Health Care Subsidy Fund, as is shown in the table above. Of the remaining estimated \$632 million on-budget cigarette tax revenue, \$390 million will be dedicated to on-budget health programs, \$50 million is dedicated to the New Jersey Economic Development Authority for payment of debt service incurred by the authority for school facilities projects, and \$30 million is dedicated to the Department of Health and Senior Services to fund anti-smoking initiatives. The sum of on-budget dedications is \$470 million.

Section: *Revenue, Finance and Appropriations*

Analyst: *Martin Poethke*
Lead Fiscal Analyst

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

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

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

SENATE, No. 2666

STATE OF NEW JERSEY
210th LEGISLATURE

INTRODUCED JUNE 12, 2003

Sponsored by:

Senator RAYMOND J. LESNIAK

District 20 (Union)

SYNOPSIS

Increases the cigarette tax by 40 cents per pack; redirects additional \$140 million annually to health related programs beginning in FY 2004.

CURRENT VERSION OF TEXT

As introduced.



S2666 LESNIAK

2

1 AN ACT concerning the taxation of cigarettes, amending P.L.1997,
2 c.264 and amending and supplementing P.L.1948, c.65.

3

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

6

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

9 301. Tax imposed; rate. A tax is hereby imposed on the sale, use
10 or possession for sale or use within this State of all cigarettes at the
11 rate of [~~\$0.075~~] \$0.095 for each cigarette.

12 (cf: P.L.2002, c.33, s.1)

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

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

41

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

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.

1 4. Notwithstanding the provisions of any other law to the
2 contrary, commencing July 1, 1998: after the deposit required
3 pursuant to section 5 of P.L.1982, c.40 (C.54:40A-37.1), the first
4 \$150,000,000 of revenue collected annually from the cigarette tax
5 imposed pursuant to P.L.1948, c.65 (C.54:40A-1 et seq.) and the first
6 \$5,000,000 of revenue collected annually from the "Tobacco Products
7 Wholesale Sales and Use Tax," P.L.1990, c.39 (C.54:40B-1 et seq.),
8 shall be deposited into the Health Care Subsidy Fund established
9 pursuant to section 8 of P.L.1992, c.160 (C.26:2H-18.58); and the
10 next [~~\$200,000,000~~] \$340,000,000 of revenue collected annually from
11 the cigarette tax imposed pursuant to P.L.1948, c.65 (C.54:40A-1 et
12 seq.) shall be appropriated annually for health programs, and the next
13 \$50,000,000 of revenue collected annually from the cigarette tax
14 imposed pursuant to P.L.1948, c.65 (C.54:40A-1 et seq.) shall be
15 appropriated annually to the New Jersey Economic Development
16 Authority for payment of debt service incurred by the authority for
17 school facilities projects and in fiscal years commencing July 1, 2002
18 and July 1, 2003, the next \$30,000,000 of revenue collected annually
19 from the cigarette tax imposed pursuant to P.L.1948, c.65
20 (C.54:40A-1 et seq.) shall be directed to the Department of Health and
21 Senior Services to fund anti-smoking initiatives, except that the
22 amount shall be \$40,000,000 in the fiscal year commencing July 1,
23 2004 and \$45,000,000 in fiscal years commencing July 1, 2005 and
24 thereafter.

25 (cf: P.L.2002, c.33, s.3)

26

27 4. This act shall take effect July 1, 2003 .

28

29

30

STATEMENT

31

32 This bill increases the cigarette tax rate by 40 cents per pack of 20
33 cigarettes effective July 1, 2003. Currently, the State excise tax on
34 cigarettes is \$0.075 per cigarette, or \$1.50 per pack. This bill
35 increases the tax to \$0.095 per cigarette, or \$1.90 per pack.

36 This bill directs an additional \$140 million in cigarette tax revenue
37 to health programs, increasing the total amount of cigarette tax
38 revenue directed to health programs from \$200 million annually to
39 \$340 million annually.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 2666**

STATE OF NEW JERSEY

DATED: JUNE 30, 2003

The Senate Budget and Appropriations Committee reports without recommendation a committee substitute for Senate Bill No. 2666.

This substitute bill increases the cigarette tax rate by 55 cents per pack of 20 cigarettes effective July 1, 2003. Currently, the State excise tax on cigarettes is \$0.075 per cigarette, or \$1.50 per pack. This bill increases the tax to \$0.1025 per cigarette, or \$2.05 per pack.

This substitute directs an additional \$190 million in cigarette tax revenue to health programs, increasing the total amount of cigarette tax revenue directed to health programs from \$200 million annually to \$390 million annually.

The provisions of this substitute bill are identical to those of Assembly Bill No. 3711 ACS.

FISCAL IMPACT

According to information supplied by the Executive Branch, this bill could increase revenues by \$190 million.