

54:40A-8

LEGISLATIVE HISTORY CHECKLIST

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(Cigarette tax)

NJSA: 54:40A-8

LAWS OF: 1997 CHAPTER: 264

BILL NO: A2157

SPONSOR(S): Collins and others

DATE INTRODUCED: June 10, 1996

COMMITTEE: ASSEMBLY: Appropriations
SENATE: Budget

AMENDED DURING PASSAGE: Yes Amendments during passage denoted by
First reprint enacted superscript numbers

DATE OF PASSAGE: ASSEMBLY: June 27, 1996
SENATE: December 18, 1997

DATE OF APPROVAL: December 19, 1997

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: Yes
SENATE: Yes

FISCAL NOTE: Yes

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: Yes

See newspaper clippings--attached:
"N.J. doubles tobacco tax," 12-20-97, Asbury Park Press.
"Legislators approve bill to double tax on tobacco products," 12-19-97,
Philadelphia Inquirer."
"Lawmakers take new tax," 12-19-97, Home News.

§2 - T&E & note to
54:40A-11
§4 - C.26:2H-18.58g
& note
to 54:10A-1 et seq.
and
54:40B-1 et seq.
§5 - Note to §§1-4

P.L. 1997, CHAPTER 264, *approved December 19, 1997*
Assembly No. 2157 (*First Reprint*)

1 AN ACT increasing the cigarette tax ¹**[rate]**and tobacco products tax
2 rates¹ to provide ¹funds for the Health Care Subsidy Fund and¹
3 increased funding for public school districts facilities ¹**[aid]**¹,
4 amending and supplementing P.L.1948, c.65¹, amending P.L.1990,
5 c.39 and supplementing P.L.1992, c.160 (C.26:2H-18.51 et seq.)¹.
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 read
11 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 **[\$0.02]** ¹**[\$0.0325]** \$0.04¹ for each cigarette.
15 (cf: P.L.1990, c.39, s.15)
16

17 2. (New section) ¹a.¹ Each retail licensee under P.L.1948, c.65
18 (C.54:40A-1 et seq.), shall, on or before the 1st day of the 2nd month
19 after the effective date of P.L. , c. (now pending before the
20 Legislature as this bill), file a return under oath or certified under the
21 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 P.L. ,
24 c. (now pending before the Legislature as this bill), and shall at the
25 time of filing that return pay the tax to the director. Failure to obtain
26 such forms shall not be an excuse for the failure to make a return
27 containing the information required by the director.

28 ¹b. Notwithstanding the provisions of section 401 of P.L.1948,

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SBA committee amendments adopted December 15, 1997.

1 c.65 (C.54:40A-11) to the contrary, each licensed distributor and
2 wholesale dealer under P.L.1948, c.65 (C.54:40A-1 et seq.), shall, on
3 or before the 1st day of the 2nd month after the effective date of
4 P.L. , c. (now pending before the Legislature as this bill), file a
5 return under oath or certified under the penalties of perjury with the
6 director on forms furnished by the director, showing the amount of
7 cigarettes in the dealer's or wholesaler's possession in the State at the
8 close of business prior to the effective date of P.L. , c. (now
9 pending before the Legislature as this bill). An amount of tax shall be
10 due equal to the additional tax on the number of cigarettes bearing
11 stamps, and unaffixed stamps on hand, that exceeds four weeks
12 average purchases of stamps. No additional tax shall be due on the
13 number of stamps equal to or less than the four weeks average
14 purchases. Each retail licensee shall at the time of filing that return
15 pay the tax to the director. Failure to obtain such forms shall not be
16 an excuse for the failure to make a return containing the information
17 required by the director.¹

18

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

21 3. a. There is imposed a tax of ~~24%~~ 48% upon the receipts from
22 every sale of a tobacco product by a distributor or a wholesaler to a
23 retail dealer or consumer.

24 b. Unless a tobacco product has already been or will be subject to
25 the wholesale sales tax imposed in subsection a. of this section, if a
26 distributor or wholesaler uses a tobacco product within this State,
27 there is imposed upon the distributor or wholesaler a compensating
28 use tax of ~~24%~~ 48% measured by the sales price of a similar tobacco
29 product to a retail dealer.

30 c. Unless a wholesale use tax is due pursuant to subsection b. of
31 this section, if a distributor or wholesaler has not collected the
32 wholesale sales tax imposed in subsection a. of this section upon a sale
33 that is subject to the wholesale sales tax imposed in that subsection a.,
34 there is imposed upon the retail dealer or consumer chargeable for the
35 sale a compensating use tax of ~~24%~~ 48% of the price paid or
36 charged for the tobacco product, which shall be collected in the
37 manner provided in subsection b. of section 5 of this act.¹

38 (cf: P.L.1990, c.39, s.3)

39

40 ¹4. (New section) Notwithstanding the provisions of any other
41 law to the contrary, commencing July 1, 1998: after the deposit
42 required pursuant to section 5 of P.L.1982, c.40 (C.54:40A-37.1), the
43 first \$150,000,000 of revenue collected annually from the cigarette tax
44 imposed pursuant to P.L.1948, c.65 (C.54:40A-1 et seq.) and the first
45 \$5,000,000 of revenue collected annually from the "Tobacco Products
46 Wholesale Sales and Use Tax," P.L.1990, c.39 (C.54:40B-1 et seq.),

1 shall be deposited in to the Health Care Subsidy Fund established
2 pursuant to section 8 of P.L.1992, c.160 (C.26:2H-18.58); and the
3 next \$50,000,000 of revenue collected annually from the cigarette tax
4 imposed pursuant to P.L.1948, c.65 (C.54:40A-1 et seq.) shall be
5 deposited in the School Construction and Renovation Fund as shall be
6 established by law.¹

7

8 ¹~~[3.]~~ 5.¹ This act shall take effect on January 1, ¹~~[1997,~~ provided
9 that a constitutional amendment dedicating the revenue derived
10 pursuant to this act for increased public school districts facilities is
11 approved by the voters] 1998 and section 3 shall apply to tobacco
12 products delivered on or after that date¹.

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17 _____
18 Increases cigarette tax by \$0.40 per pack; increases tobacco products
19 tax to 48%; annually dedicates \$155 million to Health Care Subsidy
Fund and \$50 million for school facilities.

1 STATEMENT

2

3 This bill is a companion to an Assembly Concurrent Resolution
4 which seeks to amend the State Constitution to dedicate the revenue
5 from an increase in the cigarette tax for increased public school
6 districts facilities aid. This bill enacts the tax increase of \$0.25 per
7 pack of 20 cigarettes which would be effective January 1, 1997, only
8 if the constitutional dedication is previously approved by the voters.

9 Currently, the State tax on cigarettes is \$0.02 per cigarette, or
10 \$0.40 per pack. This bill increases the tax to \$0.0325 per cigarette, or
11 \$0.65 per pack.

12 This tax rate increase will raise an additional \$130 million in
13 cigarette tax revenues. If the companion constitutional amendment is
14 approved by the voters, this additional \$130 million, or 38.46% of the
15 total anticipated revenue from the cigarette tax, will be dedicated to
16 additional State aid for school district facilities. This aid is intended
17 to supplement above the current level of \$70 million appropriated for
18 such aid.

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23 Increases cigarette tax by \$0.25 per pack for constitutionally dedicated
24 purpose of providing increased public school districts facilities aid to
25 provide a thorough and efficient system of free public schools.

[Passed Both Houses]

[First Reprint]

ASSEMBLY, No. 2157

STATE OF NEW JERSEY

INTRODUCED JUNE 10, 1996

By Assemblymen COLLINS, BATEMAN, Felice, Assemblywoman Bark, Assemblymen Blee, Bodine, Cottrell, DeCroce, Gibson, Assemblywoman Heck, Assemblymen LeFevre, Malone, Rocco, Wolfe, Assemblywoman Wright, Senators Ewing and Kenny

1 AN ACT increasing the cigarette tax ¹~~rate~~ and tobacco products tax
2 rates¹ to provide ¹funds for the Health Care Subsidy Fund and
3 increased funding for public school districts facilities ¹aid¹,
4 amending and supplementing P.L.1948, c.65¹, amending P.L.1990,
5 c.39 and supplementing P.L.1992, c.160 (C.26:2H-18.51 et seq.)¹.
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7 **BE IT ENACTED** by the Senate and General Assembly of the State
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13 or possession for sale or use within this State of all cigarettes at the
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18 (C.54:40A-1 et seq.), shall, on or before the 1st day of the 2nd month
19 after the effective date of P.L. , c. (now pending before the
20 Legislature as this bill), file a return under oath or certified under the
21 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 P.L. ,
24 c. (now pending before the Legislature as this bill), and shall at the
25 time of filing that return pay the tax to the director. Failure to obtain

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SBA committee amendments adopted December 15, 1997.

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

3 ¹b. Notwithstanding the provisions of section 401 of P.L.1948,
4 c.65 (C.54:40A-11) to the contrary, each licensed distributor and
5 wholesale dealer under P.L.1948, c.65 (C.54:40A-1 et seq.), shall, on
6 or before the 1st day of the 2nd month after the effective date of
7 P.L. , c. (now pending before the Legislature as this bill), file a
8 return under oath or certified under the penalties of perjury with the
9 director on forms furnished by the director, showing the amount of
10 cigarettes in the dealer's or wholesaler's possession in the State at the
11 close of business prior to the effective date of P.L. , c. (now
12 pending before the Legislature as this bill). An amount of tax shall be
13 due equal to the additional tax on the number of cigarettes bearing
14 stamps, and unaffixed stamps on hand, that exceeds four weeks
15 average purchases of stamps. No additional tax shall be due on the
16 number of stamps equal to or less than the four weeks average
17 purchases. Each retail licensee shall at the time of filing that return
18 pay the tax to the director. Failure to obtain such forms shall not be
19 an excuse for the failure to make a return containing the information
20 required by the director.¹

21

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

24 3. a. There is imposed a tax of ~~24%~~ 48% upon the receipts
25 from every sale of a tobacco product by a distributor or a wholesaler
26 to a retail dealer or consumer.

27 b. Unless a tobacco product has already been or will be subject to
28 the wholesale sales tax imposed in subsection a. of this section, if a
29 distributor or wholesaler uses a tobacco product within this State,
30 there is imposed upon the distributor or wholesaler a compensating
31 use tax of ~~24%~~ 48% measured by the sales price of a similar
32 tobacco product to a retail dealer.

33 c. Unless a wholesale use tax is due pursuant to subsection b. of
34 this section, if a distributor or wholesaler has not collected the
35 wholesale sales tax imposed in subsection a. of this section upon a sale
36 that is subject to the wholesale sales tax imposed in that subsection a.,
37 there is imposed upon the retail dealer or consumer chargeable for the
38 sale a compensating use tax of ~~24%~~ 48% of the price paid or
39 charged for the tobacco product, which shall be collected in the
40 manner provided in subsection b. of section 5 of this act.¹

41 (cf: P.L.1990, c.39, s.3)

42

43 ¹4. (New section) Notwithstanding the provisions of any other
44 law to the contrary, commencing July 1, 1998: after the deposit
45 required pursuant to section 5 of P.L.1982, c.40 (C.54:40A-37.1), the
46 first \$150,000,000 of revenue collected annually from the cigarette tax

1 imposed pursuant to P.L.1948, c.65 (C.54:40A-1 et seq.) and the first
2 \$5,000,000 of revenue collected annually from the "Tobacco Products
3 Wholesale Sales and Use Tax," P.L.1990, c.39 (C.54:40B-1 et seq.),
4 shall be deposited in to the Health Care Subsidy Fund established
5 pursuant to section 8 of P.L.1992, c.160 (C.26:2H-18.58); and the
6 next \$50,000,000 of revenue collected annually from the cigarette tax
7 imposed pursuant to P.L.1948, c.65 (C.54:40A-1 et seq.) shall be
8 deposited in the School Construction and Renovation Fund as shall be
9 established by law.¹

10

11 ¹[3.] 5.¹ This act shall take effect on January 1, ¹[1997, provided
12 that a constitutional amendment dedicating the revenue derived
13 pursuant to this act for increased public school districts facilities is
14 approved by the voters] 1998 and section 3 shall apply to tobacco
15 products delivered on or after that date¹.

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18

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20 Increases cigarette tax by \$0.40 per pack; increases tobacco products
21 tax to 48%; annually dedicates \$155 million to Health Care Subsidy
22 Fund and \$50 million for school facilities.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2157

STATE OF NEW JERSEY

DATED: JUNE 20, 1996

The Assembly Appropriations Committee reports favorably Assembly Bill No. 2157.

Assembly Bill No. 2157 enacts a tax increase of \$0.25 per pack of 20 cigarettes effective January 1, 1997, but only if the Constitutional dedication of the tax increase to public school districts facilities aid in the companion bill, Assembly Concurrent Resolution 1, is previously approved by the voters .

Currently, the State tax on cigarettes is \$0.02 per cigarette, or \$0.40 per pack. This bill increases the tax to \$0.0325 per cigarette, or \$0.65 per pack.

FISCAL IMPACT:

This tax rate increase is expected to raise an additional \$130 million in cigarette tax revenues in fiscal year 1997. If the companion Constitutional amendment is approved by the voters, this additional \$130 million, or 38.46% of the total anticipated revenue from the cigarette tax, will be dedicated to additional State aid for school district facilities. This aid is intended to supplement the current level of \$70 million appropriated for such aid.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2157

with Senate committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 15, 1997

The Senate Budget and Appropriations Committee reports favorably Assembly Bill No. 2157 with amendments.

Assembly Bill No. 2157, as amended, increases cigarette taxes from \$0.40 per pack to \$.80 per pack and increases the tobacco products wholesale tax from 48% of the wholesale price to 48% effective January 1, 1998. The bill annually dedicates the first \$150,000,000 of cigarette tax revenue and the first \$5,000,000 of tobacco products revenue collected in a fiscal year to the Health Care Subsidy Fund beginning July 1, 1998. The bill also dedicates the next \$50,000,000 of cigarette tax revenue collected in a fiscal year to the School Construction and Renovation Fund, to be established by separate legislation.

COMMITTEE AMENDMENTS:

The committee amended the bill to increase the cigarette tax by \$0.40 per pack to \$0.80 per pack, and the tobacco products wholesale tax by 24% to 48%. In addition the amendment changes the effective date of the increases to January 1, 1998, and dedicates \$205 million revenue from these sources to the Health Care Subsidy Fund and to a School Construction and Renovation Fund.

FISCAL IMPACT:

The tax rate increases in this bill are expected to raise additional revenues beginning January 1, 1998. The net revenue increase for the first fiscal year after enactment is anticipated to approximate the \$205 million that will be deposited into the funds specified.

LEGISLATIVE FISCAL ESTIMATE TO
ASSEMBLY, No. 2157

STATE OF NEW JERSEY

DATED: JULY 9, 1996

Assembly Bill No.2157 of 1996 is the enabling legislation for Assembly Concurrent Resolution, No. 1, which would amend the State Constitution to dedicate the equivalent of a 25 cents per pack tax increase on cigarettes sold in the State. The Assembly bill would increase the present 40 cent per pack tax rate to 65 cents if the voters approve the constitutional amendment. The proceeds from the increase in the tax rate would be used to pay the debt service on bonds sold to finance improvements to public school facilities in the State.

The Office of Legislative Services (OLS) estimates the proposed legislation would produce \$67.5 million over the last half of fiscal year 1997 for a public schools facilities fund. The OLS projects full year receipts in fiscal year 1998 to total \$133.3 million for the program.

The OLS notes there is a long term decline in cigarette sales in the State. Historically, when the cigarette tax is increased significantly, there is a sharp drop in sales of cigarettes in the near term period following the change. The rate of decline then slows in subsequent periods approaching the long term decline of approximately 2.5 percent per year. The impact of the proposal would mean regular (i.e., undedicated) General Fund cigarette tax revenues in fiscal year 1997 would be expected to decline to \$231.6 million from the actual receipts of \$250 million projected for fiscal year 1996. A projection to fiscal year 1998 indicates the General Fund revenue share would decline further to \$213.3 million. Due to the higher retail price of cigarettes, the OLS estimates the proposed change in the cigarette tax rate would add \$2.9 million to sales tax collections in fiscal year 1997 and \$5.8 million in fiscal year 1998 from present fiscal year 1996 levels.

\$ millions	Actual	Estimate	Estimate
	FY 96	FY 97	FY 98
General Fund			
Cigarette Tax	\$ 250.0	\$ 231.6	\$ 213.3
Sales Tax on Cigarette Tax Rate	\$ 15.0	\$ 17.9	\$ 20.8
Public Schools Facilities Fund	-0-	\$ 67.5	\$ 133.3