
A BILL FOR AN ACT

RELATING TO THE CIGARETTE TAX.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 245-3, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§245-3 Taxes.** (a) Every wholesaler or dealer, in
4 addition to any other taxes provided by law, shall pay for the
5 privilege of conducting business and other activities in the
6 State[+], an excise tax in the following amounts for each
7 cigarette sold, used, or possessed by a wholesaler or dealer at
8 any time during the periods indicated; provided that no
9 wholesaler or dealer shall be taxed more than once per
10 cigarette:

11 (1) [~~An excise tax equal to~~] 5.00 cents [~~for each~~
12 ~~cigarette sold, used, or, possessed by a wholesaler or~~
13 ~~dealer~~] after June 30, 1998, [~~whether or not sold at~~
14 ~~wholesale, or if not sold then at the same rate upon~~
15 ~~the use by the wholesaler or dealer,~~] but prior to
16 October 1, 2002;

17 (2) [~~An excise tax equal to~~] 6.00 cents [~~for each~~
18 ~~cigarette sold, used, or possessed by a wholesaler or~~



1 ~~dealer]~~ after September 30, 2002, [~~whether or not sold~~
2 ~~at wholesale, or if not sold then at the same rate~~
3 ~~upon the use by the wholesaler or dealer,]~~ but prior
4 to July 1, 2003;

5 (3) [~~An excise tax equal to]~~ 6.50 cents [~~for each~~
6 ~~cigarette sold, used, or possessed by a wholesaler or~~
7 ~~dealer]~~ after June 30, 2003, [~~whether or not sold at~~
8 ~~wholesale, or if not sold then at the same rate upon~~
9 ~~the use by the wholesaler or dealer,]~~ but prior to
10 July 1, 2004;

11 (4) [~~An excise tax equal to]~~ 7.00 cents [~~for each~~
12 ~~cigarette sold, used, or possessed by a wholesaler or~~
13 ~~dealer]~~ after June 30, 2004, [~~whether or not sold at~~
14 ~~wholesale, or if not sold then at the same rate upon~~
15 ~~the use by the wholesaler or dealer,]~~ but prior to
16 September 30, 2006;

17 (5) [~~An excise tax equal to]~~ 8.00 cents [~~for each~~
18 ~~cigarette sold, used, or possessed by a wholesaler or~~
19 ~~dealer on and]~~ after September [~~30,]~~ 29, 2006,
20 [~~whether or not sold at wholesale, or if not sold then~~
21 ~~at the same rate upon the use by the wholesaler or~~
22 ~~dealer,]~~ but prior to October 1, 2007;



- 1 (6) ~~[An excise tax equal to]~~ 9.00 cents ~~[for each~~
2 ~~cigarette sold, used, or possessed by a wholesaler or~~
3 ~~dealer on and]~~ after September 30, 2007, ~~[whether or~~
4 ~~not sold at wholesale, or if not sold then at the same~~
5 ~~rate upon the use by the wholesaler or dealer,]~~ but
6 prior to October 1, 2008;
- 7 (7) ~~[An excise tax equal to]~~ 10.00 cents ~~[for each~~
8 ~~cigarette sold, used, or possessed by a wholesaler or~~
9 ~~dealer on and]~~ after September 30, 2008, ~~[whether or~~
10 ~~not sold at wholesale, or if not sold then at the same~~
11 ~~rate upon the use by the wholesaler or dealer,]~~ but
12 prior to October 1, 2009;
- 13 (8) ~~[An excise tax equal to]~~ 11.00 cents ~~[for each~~
14 ~~cigarette sold, used, or possessed by a wholesaler or~~
15 ~~dealer on and]~~ after September 30, 2009, ~~[whether or~~
16 ~~not sold at wholesale, or if not sold then at the same~~
17 ~~rate upon the use by the wholesaler or dealer,]~~ but
18 prior to October 1, 2010;
- 19 (9) ~~[An excise tax equal to]~~ 12.00 cents ~~[for each~~
20 ~~cigarette sold, used, or possessed by a wholesaler or~~
21 ~~dealer on and]~~ after September 30, 2010, ~~[whether or~~
22 ~~not sold at wholesale, or if not sold then at the same~~



1 ~~rate upon the use by the wholesaler or dealer,] but~~
 2 ~~prior to October 1, 2011; and~~

3 (10) ~~[An excise tax equal to] 13.00 cents [for each~~
 4 ~~cigarette sold, used, or possessed by a wholesaler or~~
 5 ~~dealer on and] after September 30, 2011[, whether or~~
 6 ~~not sold at wholesale, or if not sold then at the same~~
 7 ~~rate upon the use by the wholesaler or dealer; and].~~

8 ~~[(11) An]~~ (b) Every wholesaler or dealer, in addition to any
 9 other taxes provided by law, shall pay for the privilege of
 10 conducting business and other activities in the state an excise
 11 tax equal to forty per cent of the wholesale price of each
 12 article or item of tobacco products sold by the wholesaler or
 13 dealer, whether or not sold at wholesale, or if not sold then at
 14 the same rate upon the use by the wholesaler or dealer.

15 (c) Where the tax imposed by this section has been paid on
 16 [cigarettes or tobacco] products that thereafter become the
 17 subject of a casualty loss deduction allowable under chapter
 18 235, the tax paid shall be refunded or credited to the account
 19 of the wholesaler or dealer.

20 (d) The tax shall be applied to cigarettes through the use
 21 of stamps.



1 ~~[(b)]~~ (e) The taxes, however, are subject to the following
2 limitations:

3 (1) The measure of the taxes shall not include any
4 cigarettes or tobacco products exempted, and so long
5 as the same are exempted, from the imposition of taxes
6 by the Constitution or laws of the United States;

7 (2) The measure of taxes shall exempt and exclude all
8 sales of cigarettes and tobacco products to the United
9 States (including any agency or instrumentality
10 thereof that is wholly owned or otherwise so
11 constituted as to be immune from the levy of a tax
12 under this chapter), sold by any person licensed under
13 this chapter; and

14 (3) The taxes shall be paid only once with respect to the
15 same cigarettes or tobacco product. This limitation
16 shall not prohibit the imposition of the excise tax on
17 receipts from sales of tobacco products under
18 subsection ~~[(a)(5)]~~ (b); provided that the amount
19 subject to the tax on each sale shall not include
20 amounts previously taxed under this chapter."

21 SECTION 2. Section 245-15, Hawaii Revised Statutes, is
22 amended to read as follows:



1 "**§245-15 Disposition of revenues.** All moneys collected
2 pursuant to this chapter shall be paid into the state treasury
3 as state realizations to be kept and accounted for as provided
4 by law; provided that, of the moneys collected under the tax
5 imposed pursuant to [~~section 245-3(a) that represents the~~
6 ~~difference between the 7.0 cents for each cigarette sold, used,~~
7 ~~or possessed by a wholesaler or dealer under section 245-3(a)(1)~~
8 ~~and the amount of tax imposed and collected on each cigarette~~
9 ~~sold, used, or possessed by a wholesaler or dealer under]~~
10 section 245-3(a)(5), (6), (7), (8), (9), and (10)[+], the
11 following amount for each cigarette sold, used, or possessed by
12 a wholesaler or dealer during the period indicated shall be
13 deposited as follows:

14 (1) [~~From September 30, 2006 to~~] After September 29, 2006,
15 but prior to October 1, 2007, 1.0 cent shall be
16 deposited to the credit of the Hawaii cancer research
17 special fund[~~7~~] established pursuant to section
18 [~~+~~]304A-2168[~~+~~, ~~for research and operating expenses~~];

19 (2) [~~From~~] After September 30, 2007 [~~to September 29~~], but
20 prior to October 1, 2008:

21 (A) 1.5 cents shall be deposited to the credit of the
22 Hawaii cancer research special fund[~~7~~]



- 1 established pursuant to section [~~+~~304A-2168~~+~~
2 ~~for research and operating expenses; and~~];
- 3 (B) 0.25 cents [~~of the moneys~~] shall be deposited to
4 the credit of the trauma system special fund
5 established pursuant to section 321-22.5; and
- 6 (C) 0.25 cents [~~of the moneys~~] shall be deposited to
7 the credit of the emergency medical services
8 special fund established pursuant to section
9 321-234;
- 10 (3) [~~From~~] September 30, 2008 [~~to September 29~~], but prior
11 to October 1, 2009:
- 12 (A) 2.0 cents shall be deposited to the credit of the
13 Hawaii cancer research special fund~~+~~
14 established pursuant to section [~~+~~304A-2168~~+~~
15 ~~for research and operating expenses; and~~];
- 16 (B) 0.5 cents [~~of the moneys~~] shall be deposited to
17 the credit of the trauma system special fund
18 established pursuant to section 321-22.5;
- 19 (C) 0.25 cents [~~of the moneys~~] shall be deposited to
20 the credit of the community health centers
21 special fund~~+~~ established pursuant to section
22 321-1.65; and



- 1 (D) 0.25 cents [~~of the moneys~~] shall be deposited to
2 the credit of the emergency medical services
3 special fund established pursuant to section
4 321-234;
- 5 (4) [~~From~~] After September 30, 2009 [~~to September 29~~], but
6 prior to October 1, 2010:
- 7 (A) 2.0 cents shall be deposited to the credit of the
8 Hawaii cancer research special fund[~~7~~]
9 established pursuant to section [~~+~~]304A-2168[~~+~~,
10 ~~for research and operating expenses; and~~];
- 11 (B) 0.75 cents [~~of the moneys~~] shall be deposited to
12 the credit of the trauma system special fund
13 established pursuant to section 321-22.5;
- 14 (C) 0.75 cents [~~of the moneys~~] shall be deposited to
15 the credit of the community health centers
16 special fund[~~7~~] established pursuant to section
17 321-1.65; and
- 18 (D) 0.5 cents [~~of the moneys~~] shall be deposited to
19 the credit of the emergency medical services
20 special fund established pursuant to section 321-
21 234;



1 (5) [~~From~~] After September 30, 2010 [~~to September 29~~], but
2 prior to October 1, 2011:

3 (A) 2.0 cents shall be deposited to the credit of the
4 Hawaii cancer research special fund[~~7~~]
5 established pursuant to section [~~+~~]304A-2168[~~+~~,
6 ~~for research and operating expenses, and~~];

7 (B) 1.0 cent [~~of the moneys~~] shall be deposited to
8 the credit of the trauma system special fund
9 established pursuant to section 321-22.5;

10 (C) 1.0 cent [~~of the moneys~~] shall be deposited to
11 the credit of the community health centers
12 special fund[~~7~~] established pursuant to section
13 321-1.65; and

14 (D) 1.0 cent [~~of the moneys~~] shall be deposited to
15 the credit of the emergency medical services
16 special fund established pursuant to section
17 321-234;

18 and

19 (6) [~~From~~] After September 30, 2011, and thereafter:

20 (A) 2.0 cents shall be deposited to the credit of the
21 Hawaii cancer research special fund[~~7~~]



1 established pursuant to section [~~+~~]304A-2168[~~+~~],
2 ~~for research and operating expenses; and~~;

3 (B) 1.5 cents [~~of the moneys~~] shall be deposited to
4 the credit of the trauma system special fund
5 established pursuant to section 321-22.5;

6 (C) 1.25 cents [~~of the moneys~~] shall be deposited to
7 the credit of the community health centers
8 special fund[+] established pursuant to section
9 321-1.65; and

10 (D) 1.25 cents [~~of the moneys~~] shall be deposited to
11 the credit of the emergency medical services
12 special fund established pursuant to section 321-
13 234.

14 The department shall provide an annual accounting of these
15 dispositions to the legislature."

16 SECTION 3. Section 245-16, Hawaii Revised Statutes, is
17 amended by amending subsection (b) to read as follows:

18 "(b) This section shall not apply to the shipment of
19 cigarettes if any of the following conditions are met:

20 (1) The cigarettes are exempt from taxes as provided by
21 section [~~245-3(b)~~] 245-3(e) or are otherwise exempt



1 from the applicability of this chapter as provided by
2 section 245-62;

3 (2) All applicable Hawaii taxes on the cigarettes are paid
4 in accordance with the requirements of this chapter;
5 or

6 (3) The person or entity engaged in the business of
7 selling, advertising, or offering cigarettes for sale
8 and transfer or shipment:

9 (A) Has fully complied with all of the requirements
10 of chapter 10A (commencing with section 375) of
11 Title 15 of the United States Code, otherwise
12 known as the Jenkins Act; and

13 (B) Includes on the outside of the shipping container
14 an externally visible and easily legible notice
15 located on the same side of the shipping
16 container as the address to which the shipping
17 container is delivered stating as follows:
18 "CIGARETTES: HAWAII LAW PROHIBITS THE SALE OF
19 CIGARETTES TO INDIVIDUALS UNDER EIGHTEEN YEARS OF
20 AGE AND REQUIRES THE PAYMENT OF ALL APPLICABLE
21 TAXES. YOU ARE LEGALLY RESPONSIBLE FOR ALL
22 APPLICABLE UNPAID TAXES ON THESE CIGARETTES." "



1 SECTION 4. Section 245-22.5, Hawaii Revised Statutes, is
2 amended by amending subsection (d) to read as follows:

3 "(d) This section shall not apply to cigarettes that are
4 exempt from taxes as provided by section [~~245-3(b).~~] 245-3(e).

5 SECTION 5. Section 245-39, Hawaii Revised Statutes, is
6 amended by amending subsection (a) to read as follows:

7 "(a) Sections 245-37 and 245-38 shall not apply to
8 cigarettes that are exempt from taxes as provided by section
9 [~~245-3(b).~~] 245-3(e)."

10 SECTION 6. Section 304A-2168, Hawaii Revised Statutes, is
11 amended by amending subsection (c) to read as follows:

12 "(c) [~~Moneys~~] Cigarette tax revenues collected pursuant to
13 section 245-15 and designated for the Hawaii cancer research
14 special fund shall be deposited into the special fund."

15 SECTION 7. Section 321-1.65, Hawaii Revised Statutes, is
16 amended by amending subsection (c) to read as follows:

17 "(c) Moneys collected pursuant to section 245-15 and
18 designated for the community health centers special fund shall
19 be deposited into the special fund."

20 SECTION 8. Section 321-22.5, Hawaii Revised Statutes, is
21 amended by amending subsection (c) to read as follows:



1 "(c) [~~Interest~~] Cigarette tax revenues collected pursuant
2 to section 245-15 and designated for the trauma system special
3 fund, interest and investment earnings attributable to the
4 moneys in the trauma system special fund, federal funding,
5 legislative appropriations, and grants, donations, and
6 contributions from private or public sources for the purposes of
7 the trauma system special fund shall be deposited into the
8 trauma system special fund."

9 SECTION 9. Section 321-234, Hawaii Revised Statutes, is
10 amended by amending subsection (c) to read as follows:

11 "(c) Fees remitted pursuant to section 249-31, cigarette
12 tax revenues [~~designated~~] collected under section 245-15 and
13 designated for the emergency medical services special fund,
14 interest and investment earnings attributable to the moneys in
15 the special fund, legislative appropriations, and grants,
16 donations, and contributions from private or public sources for
17 the purposes of the fund, shall be deposited into the special
18 fund."

19 SECTION 10. In 2006, the legislature passed Act 316 to,
20 among other things, allocate "a significant percentage of
21 tobacco tax revenues to programs that strive to maintain
22 Hawaii's health such as the cancer research center of Hawaii..."



1 However, due to a drafting oversight, the Act allocated only a
 2 penny to the cancer research center of Hawaii. This Act
 3 corrects the provisions of Act 316 to provide the cancer
 4 research center of Hawaii with the amount of funding that it
 5 would have received had the provisions of Act 316 been correct.
 6 It is the intent of the legislature by the amendment in this Act
 7 to section 245-15, Hawaii Revised Statutes, to ensure that the
 8 proportionate amount of funding collected under section 245-3,
 9 Hawaii Revised Statutes, that should have been deposited to the
 10 credit of the Hawaii cancer research special fund pursuant to
 11 paragraph (1) of section 245-15, Hawaii Revised Statutes, be so
 12 deposited.

13 SECTION 11. Statutory material to be repealed is bracketed
 14 and stricken. New statutory material is underscored.

15 SECTION 12. This Act shall take effect on July 1, 2007.

16

INTRODUCED BY: *Celvi K. Ay*
 JAN 22 2007



Report Title:

Cigarette Tax; Corrections

Description:

Amends the cigarette tax law to ensure the intended distribution and use of the funds collected.

