

A Bill for an Act Relating to Tax on Tobacco Products Other Than Cigarettes.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that, according to the University of Minnesota, of the estimated ten million users of smokeless tobacco, three million are under the age of twenty-one. Almost twenty-five per cent of young users start by the sixth grade, and almost seventy-five per cent start by the ninth grade. In 1970, young males ages seventeen to nineteen used smokeless tobacco the least of any age group. Today, usage by males of these ages is the highest of any age group. In America, more than three per cent of adult males, and less than one per cent of females, use smokeless tobacco. Among youth in grades nine to twelve, eight per cent use smokeless tobacco at least once a month and two to three per cent use it daily.

Chewing, or smokeless, tobacco contains over two thousand chemicals, many of which have been directly related to causing cancer, especially in the oral cavity. Studies have revealed potent carcinogens in chewing tobacco and snuff. The major carcinogens in smokeless tobacco are nitrosamines, polynuclear aromatic hydrocarbons, and radioactive and metallic compounds. The nitrosamine content of smokeless tobacco exceeds more than one thousand times the nitrosamine content allowed by the United States Food and Drug Administration in products such as beer and bacon.

Oral cancer has been shown to occur several times more frequently among individuals who use smokeless tobacco than nontobacco users, and the excess risk of cancers of the cheek and gum reaches nearly fifty-fold among long-term snuff users. Smokeless tobacco is also associated with cancers of the esophagus, larynx, and stomach and an increased risk of heart attacks and other cardiovascular diseases. About forty to sixty per cent of smokeless tobacco users exhibit leukoplakia, which is regarded as precancerous with a malignant transformation rate of two to six per cent, in the area where the quid is held, usually within a few months of beginning regular use.

Smokeless tobacco is also addictive. The nicotine in smokeless tobacco and snuff is absorbed directly into the bloodstream. An individual who uses smokeless tobacco has a similar, or even higher, level of nicotine than a smoker who smokes a pack or more a day.

The purpose of this Act is to increase deterrents against the use of tobacco products other than cigarettes, including smokeless tobacco, snuff, cigars, little cigars, and pipe tobacco.

SECTION 2. Section 245-1, Hawaii Revised Statutes, is amended by:

1. Adding a new definition to read as follows:

““Little cigar” means any roll for smoking made wholly or in part of tobacco if such product is wrapped in any substance containing tobacco, with a ring gauge of less than thirty (less than .467 inches in diameter), of any length.”

2. Amending the definition of “tobacco products” to read as follows:

““Tobacco products” means tobacco in any form other than cigarettes or little cigars, that is prepared or intended for consumption [by:] or [the] for personal use [of:] by humans, including cigars and any substitutes thereof other

than cigarettes ~~[which]~~ that bear the semblance thereof, snuff, chewing or smokeless tobacco, and smoking or pipe tobacco.”

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

“(a) Every wholesaler or dealer, in addition to any other taxes provided by law, shall pay for the privilege of conducting business and other activities in the State:

- (1) An excise tax equal to 5.00 cents for each cigarette sold, used, or possessed by a wholesaler or dealer after June 30, 1998, whether or not sold at wholesale, or if not sold then at the same rate upon the use by the wholesaler or dealer;
 - (2) An excise tax equal to 6.00 cents for each cigarette sold, used, or possessed by a wholesaler or dealer after September 30, 2002, whether or not sold at wholesale, or if not sold then at the same rate upon the use by the wholesaler or dealer;
 - (3) An excise tax equal to 6.50 cents for each cigarette sold, used, or possessed by a wholesaler or dealer after June 30, 2003, whether or not sold at wholesale, or if not sold then at the same rate upon the use by the wholesaler or dealer;
 - (4) An excise tax equal to 7.00 cents for each cigarette sold, used, or possessed by a wholesaler or dealer after June 30, 2004, whether or not sold at wholesale, or if not sold then at the same rate upon the use by the wholesaler or dealer;
 - (5) An excise tax equal to 8.00 cents for each cigarette sold, used, or possessed by a wholesaler or dealer on and after September 30, 2006, whether or not sold at wholesale, or if not sold then at the same rate upon the use by the wholesaler or dealer;
 - (6) An excise tax equal to 9.00 cents for each cigarette sold, used, or possessed by a wholesaler or dealer on and after September 30, 2007, whether or not sold at wholesale, or if not sold then at the same rate upon the use by the wholesaler or dealer;
 - (7) An excise tax equal to 10.00 cents for each cigarette sold, used, or possessed by a wholesaler or dealer on and after September 30, 2008, whether or not sold at wholesale, or if not sold then at the same rate upon the use by the wholesaler or dealer;
 - (8) An excise tax equal to 11.00 cents for each cigarette sold, used, or possessed by a wholesaler or dealer on and after September 30, 2009, whether or not sold at wholesale, or if not sold then at the same rate upon the use by the wholesaler or dealer;
 - (9) An excise tax equal to 11.00 cents for each little cigar sold, used, or possessed by a wholesaler or dealer on and after October 1, 2009, whether or not sold at wholesale, or if not sold then at the same rate upon the use by the wholesaler or dealer;
 - [~~(9)~~] (10) An excise tax equal to 12.00 cents for each cigarette or little cigar sold, used, or possessed by a wholesaler or dealer on and after September 30, 2010, whether or not sold at wholesale, or if not sold then at the same rate upon the use by the wholesaler or dealer;
 - [~~(10)~~] (11) An excise tax equal to 13.00 cents for each cigarette or little cigar sold, used, or possessed by a wholesaler or dealer on and after September 30, 2011, whether or not sold at wholesale, or if not sold then at the same rate upon the use by the wholesaler or dealer;
- [and]

- [41] (12) Except as provided in paragraph (13), [An] an excise tax equal to [forty] seventy per cent of the wholesale price of each article or item of tobacco products sold by the wholesaler or dealer[.] on and after September 30, 2009, whether or not sold at wholesale, or if not sold then at the same rate upon the use by the wholesaler or dealer[.]; and
- (13) An excise tax equal to fifty per cent of the wholesale price of each cigar with a ring gauge of thirty or more (.467 inches in diameter or more), of any length, sold, used, or possessed by a wholesaler or dealer on and after September 30, 2009, whether or not sold at wholesale, or if not sold then at the same rate upon the use by the wholesaler or dealer.

Where the tax imposed has been paid on cigarettes, little cigars, or tobacco products that thereafter become the subject of a casualty loss deduction allowable under chapter 235, the tax paid shall be refunded or credited to the account of the wholesaler or dealer. The tax shall be applied to cigarettes through the use of stamps.”

SECTION 4. Section 245-15, Hawaii Revised Statutes, is amended to read as follows:

“§245-15 Disposition of revenues. All moneys collected pursuant to this chapter shall be paid into the state treasury as state realizations to be kept and accounted for as provided by law; provided that, of the moneys collected under the tax imposed pursuant to:

- (1) Section 245-3(a)(5), after September 30, 2006, and prior to October 1, 2007, 1.0 cent per cigarette shall be deposited to the credit of the Hawaii cancer research special fund, established pursuant to section 304A-2168, for research and operating expenses and for capital expenditures;
- (2) Section 245-3(a)(6), after September 30, 2007, and prior to October 1, 2008:
 - (A) 1.5 cents per cigarette shall be deposited to the credit of the Hawaii cancer research special fund, established pursuant to section 304A-2168, for research and operating expenses and for capital expenditures;
 - (B) 0.25 cents per cigarette shall be deposited to the credit of the trauma system special fund established pursuant to section 321-22.5; and
 - (C) 0.25 cents per cigarette shall be deposited to the credit of the emergency medical services special fund established pursuant to section 321-234;
- (3) Section 245-3(a)(7), after September 30, 2008, and prior to October 1, 2009:
 - (A) 2.0 cents per cigarette shall be deposited to the credit of the Hawaii cancer research special fund, established pursuant to section 304A-2168, for research and operating expenses and for capital expenditures;
 - (B) 0.5 cents per cigarette shall be deposited to the credit of the trauma system special fund established pursuant to section 321-22.5;
 - (C) 0.25 cents per cigarette shall be deposited to the credit of the community health centers special fund[.] established pursuant to section 321-1.65; and

- (D) 0.25 cents per cigarette shall be deposited to the credit of the emergency medical services special fund established pursuant to section 321-234;
- (4) Section 245-3(a)(8), after September 30, 2009, and prior to October 1, 2010:
- (A) 2.0 cents per cigarette shall be deposited to the credit of the Hawaii cancer research special fund, established pursuant to section 304A-2168, for research and operating expenses and for capital expenditures;
- (B) 0.75 cents per cigarette shall be deposited to the credit of the trauma system special fund established pursuant to section 321-22.5;
- (C) 0.75 cents per cigarette shall be deposited to the credit of the community health centers special fund~~[s]~~ established pursuant to section 321-1.65; and
- (D) 0.5 cents per cigarette shall be deposited to the credit of the emergency medical services special fund established pursuant to section 321-234;
- (5) Section 245-3(a)~~[(9)]~~ (10), after September 30, 2010, and prior to October 1, 2011:
- (A) 2.0 cents per cigarette shall be deposited to the credit of the Hawaii cancer research special fund, established pursuant to section 304A-2168, for research and operating expenses and for capital expenditures;
- (B) 1.0 cent per cigarette shall be deposited to the credit of the trauma system special fund established pursuant to section 321-22.5;
- (C) 1.0 cent per cigarette shall be deposited to the credit of the community health centers special fund~~[s]~~ established pursuant to section 321-1.65; and
- (D) 1.0 cent per cigarette shall be deposited to the credit of the emergency medical services special fund established pursuant to section 321-234; and
- (6) Section 245-3(a)~~[(10)]~~ (11), after September 30, 2011, and thereafter:
- (A) 2.0 cents per cigarette shall be deposited to the credit of the Hawaii cancer research special fund, established pursuant to section 304A-2168, for research and operating expenses and for capital expenditures;
- (B) 1.5 cents per cigarette shall be deposited to the credit of the trauma system special fund established pursuant to section 321-22.5;
- (C) 1.25 cents per cigarette shall be deposited to the credit of the community health centers special fund~~[s]~~ established pursuant to section 321-1.65; and
- (D) 1.25 cents per cigarette shall be deposited to the credit of the emergency medical services special fund established pursuant to section 321-234.

The department shall provide an annual accounting of these dispositions to the legislature.”

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

ACT 58

SECTION 6. This Act shall take effect upon its approval; provided that the amendments made to section 245-1, Hawaii Revised Statutes, by this Act shall not be repealed when that section is reenacted on July 1, 2009, pursuant to section 9 of Act 131, Session Laws of Hawaii 2005.

(Vetoed by Governor and veto overridden by Legislature on May 8, 2009.)