

§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 and ¹
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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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.