

SENATE, No. 2360

STATE OF NEW JERSEY

INTRODUCED DECEMBER 18, 1997

By Senators EWING and KENNY

1 AN ACT increasing the cigarette tax and tobacco products tax rates to  
2 provide funds for the Health Care Subsidy Fund and increased  
3 funding for public school districts facilities, amending and  
4 supplementing P.L.1948, c.65, amending P.L.1990, c.39 and  
5 supplementing P.L.1992, c.160 (C.26:2H-51 et seq.).  
6

7 **BE IT ENACTED** by the Senate and General Assembly of the State  
8 of New Jersey:

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

11 301. Tax imposed; rate. A tax is hereby imposed on the sale, use  
12 or possession for sale or use within this State of all cigarettes at the  
13 rate of [~~\$0.02~~] \$0.04 for each cigarette.

14 (cf: P.L.1990, c.39, s.15)  
15

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

27 b. Notwithstanding the provisions of section 401 of P.L.1948,  
28 c.65 (C.54:40A-11) to the contrary, each licensed distributor and  
29 wholesale dealer under P.L.1948, c.65 (C.54:40A-1 et seq.), shall, on  
30 or before the 1st day of the 2nd month after the effective date of  
31 P.L. , c. (now pending before the Legislature as this bill), file a  
32 return under oath or certified under the penalties of perjury with the  
33 director on forms furnished by the director, showing the amount of  
34 cigarettes in the dealer's or wholesaler's possession in the State at the

**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.**

1 close of business prior to the effective date of P.L. , c. (now  
2 pending before the Legislature as this bill). An amount of tax shall be  
3 due equal to the additional tax on the number of cigarettes bearing  
4 stamps, and unaffixed stamps on hand, that exceeds four weeks  
5 average purchases of stamps. No additional tax shall be due on the  
6 number of stamps equal to or less than the four weeks average  
7 purchases. Each retail licensee shall at the time of filing that return  
8 pay the tax to the director. Failure to obtain such forms shall not be  
9 an excuse for the failure to make a return containing the information  
10 required by the director.

11

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

14 3. a. There is imposed a tax of [24%] 48% upon the receipts from  
15 every sale of a tobacco product by a distributor or a wholesaler to a  
16 retail dealer or consumer.

17 b. Unless a tobacco product has already been or will be subject to  
18 the wholesale sales tax imposed in subsection a. of this section, if a  
19 distributor or wholesaler uses a tobacco product within this State,  
20 there is imposed upon the distributor or wholesaler a compensating  
21 use tax of [24%] 48% measured by the sales price of a similar tobacco  
22 product to a retail dealer.

23 c. Unless a wholesale use tax is due pursuant to subsection b. of  
24 this section, if a distributor or wholesaler has not collected the  
25 wholesale sales tax imposed in subsection a. of this section upon a sale  
26 that is subject to the wholesale sales tax imposed in that subsection a.,  
27 there is imposed upon the retail dealer or consumer chargeable for the  
28 sale a compensating use tax of [24%] 48% of the price paid or  
29 charged for the tobacco product, which shall be collected in the  
30 manner provided in subsection b. of section 5 of this act.

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

32

33 4. (New section) Notwithstanding the provisions of any other law  
34 to the contrary, commencing July 1, 1998: after the deposit required  
35 pursuant to section 5 of P.L.1982, c.40 (C.54:40A-37.1), the first  
36 \$150,000,000 of revenue collected annually from the cigarette tax  
37 imposed pursuant to P.L.1948, c.65 (C.54:40A-1 et seq.) and the first  
38 \$5,000,000 of revenue collected annually from the "Tobacco Products  
39 Wholesale Sales and Use Tax," P.L.1990, c.39 (C.54:40B-1 et seq.),  
40 shall be deposited in the Health Care Subsidy Fund established  
41 pursuant to section 8 of P.L.1992, c.160 (C.26:2H-18.58); and the  
42 next \$50,000,000 of revenue collected annually from the cigarette tax  
43 imposed pursuant to P.L.1948, c.65 (C.54:40A-1 et seq.) shall be  
44 deposited in the School Construction and Renovation Fund as shall be  
45 established by law.

