

Representative Carl R. Saunders proposes the following substitute bill:

CIGARETTE AND TOBACCO TAX

AMENDMENTS

2002 GENERAL SESSION

STATE OF UTAH

Sponsor: Carl R. Saunders

This act modifies the Cigarette and Tobacco Tax and Licensing Act. This act increases the rates of tax levied on cigarettes and other tobacco products and specifies how a portion of any increase in cigarette tax revenues will be used. This act provides an effective date.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

59-14-204, as last amended by Chapter 190, Laws of Utah 2000

59-14-205, as last amended by Chapter 190, Laws of Utah 2000

59-14-302, as renumbered and amended by Chapter 2, Laws of Utah 1987

ENACTS:

59-14-204.5, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **59-14-204** is amended to read:

59-14-204. Tax basis -- Rate -- Future increase -- Restricted account -- Use of revenues.

(1) Except for cigarettes described under Section 59-14-210, there is levied a tax upon the sale, use, or storage of cigarettes in the state.

(2) [~~The~~] (a) Until May 14, 2002, the rates of the tax levied under Subsection (1) are:

[~~(a)~~] (i) 2.575 cents on each cigarette, for all cigarettes weighing not more than three pounds per thousand cigarettes; and

[~~(b)~~] (ii) 3.175 cents on each cigarette, for all cigarettes weighing in excess of three pounds



26 per thousand cigarettes.

27 (b) Beginning May 15, 2002, the rates of the tax levied under Subsection (1) are:

28 (i) 4.075 cents on each cigarette, for all cigarettes weighing not more than three pounds
29 per thousand cigarettes; and

30 (ii) 4.675 cents on each cigarette, for all cigarettes weighing in excess of three pounds per
31 thousand cigarettes.

32 (3) The tax levied under Subsection (1) shall be paid by the manufacturer, jobber,
33 distributor, wholesaler, retailer, user, or consumer.

34 (4) The tax rates specified in this section shall be increased by the commission by the same
35 amount as any future reduction in the federal excise tax on cigarettes.

36 (5) (a) There is created within the General Fund a restricted account known as the
37 "Cigarette Tax Restricted Account."

38 (b) Beginning on July 1, 1998, \$250,000 of the revenues generated by the increase in the
39 cigarette tax under this section enacted during the 1997 Annual General Session shall be annually
40 deposited into the account.

41 (c) The Department of Health shall expend the funds in the account for a tobacco
42 prevention and control media campaign targeted towards children.

43 (d) The following amounts of tax levied under Subsection (1) shall be deposited in the
44 Cigarette Tax Restricted Account:

45 (i) an amount equal to a tax of 0.5 cents on each cigarette taxed under Subsection (1), to
46 be annually appropriated to the Department of Health for tobacco prevention, reduction, cessation,
47 and control programs;

48 (ii) an amount equal to a tax of 0.25 cents on each cigarette taxed under Subsection (1),
49 to be annually appropriated to the University of Utah Health Sciences Center for the Huntsman
50 Cancer Institute for cancer research; and

51 (iii) an amount equal to a tax of 0.25 cents on each cigarette taxed under Subsection (1),
52 to be annually appropriated to the Medical Education Council for medical education at the
53 University of Utah School of Medicine.

54 (e) Any balance remaining in the Cigarette Tax Restricted Account at the end of the fiscal
55 year shall be appropriated during the next fiscal year for the purposes set forth in Subsections
56 (5)(d)(i) through (5)(d)(iii) in proportion to the amount of revenue deposited into the account for

57 each purpose.

58 (f) The Legislature shall give particular consideration to appropriating any revenues
59 resulting from the change in tax rates under Subsection (2) adopted during the 2002 Annual
60 General Session and not otherwise appropriated pursuant to Subsection (5)(d) to enhance Medicaid
61 provider reimbursement rates and medical coverage for the uninsured.

62 Section 2. Section **59-14-204.5** is enacted to read:

63 **59-14-204.5. Additional tax on cigarette stamps on May 15, 2002.**

64 (1) In addition to the tax levied by Section 59-14-204, there is a tax imposed on the stamps
65 in the possession of manufacturers, distributors, wholesalers, and retail dealers on May 15, 2002
66 whether or not the stamps are affixed to cigarettes on May 15, 2002.

67 (2) The tax imposed by this section shall be equal to the difference between the tax rate
68 imposed by Section 59-14-204 before May 15, 2002 and the tax rate imposed by Section
69 59-14-204 on May 15, 2002, multiplied by the number of stamps in the possession of the
70 manufacturer, distributor, wholesaler and retail dealer on May 15, 2002.

71 (3) A manufacturer, distributor, wholesaler, or retail dealer required to pay the tax imposed
72 by this section shall complete a tax return and submit the return and payment to the commission
73 on or before June 1, 2002.

74 (4) A person failing to properly pay the tax imposed by this section shall be subject to the
75 penalties and interest of Sections 59-1-401 and 59-1-402.

76 (5) The tax imposed by this section is exempt from the stamping requirements of Section
77 59-14-205.

78 (6) The revenue from the tax imposed by this section shall be deposited into the Cigarette
79 Tax Restricted Account and appropriated in accordance with Subsections 59-14-204(5)(d) through
80 (f).

81 Section 3. Section **59-14-205** is amended to read:

82 **59-14-205. Stamping procedure -- Rules -- Exceptions.**

83 (1) [The] Except as provided in Section 59-14-204.5, the taxes imposed on cigarettes by
84 this chapter shall be paid by affixing stamps in the manner and at the time prescribed in this
85 section, unless otherwise required by rules promulgated by the commission.

86 (2) All manufacturers, distributors, wholesalers, and retail dealers shall securely affix the
87 stamps to each individual package or container of cigarettes.

88 (3) Stamps shall be securely affixed to each individual package within 72 hours after any
89 of the cigarettes are received by any wholesaler, distributor, or retailer within the state. All
90 cigarettes shall be stamped before sale within the state. If products subject to this chapter are
91 manufactured within the state they shall be stamped by the manufacturer when and as sold.

92 (4) The commission may, where it is practical and reasonable for the enforcement of the
93 collection of taxes, promulgate rules to permit any of the articles taxable under this chapter to
94 remain unstamped in the hands of the wholesaler or distributor until the original case or crate is
95 broken, unpacked, or sold.

96 (5) The commission may permit any manufacturer, wholesaler, or distributor to sell and
97 export to a regular dealer in these articles outside the state, any of the articles without affixing the
98 stamps. Where the articles are allowed to remain unstamped in the hands of the wholesaler or
99 distributor, the commission may require the wholesaler or distributor to secure a surety bond from
100 a surety company authorized to do business in this state. The bond shall be conditioned to secure
101 the payment of all taxes and penalties provided in this chapter.

102 (6) No manufacturer, distributor, wholesaler, or retail dealer may remove, conceal, or
103 obscure a cigarette package:

104 (a) notice described under Subsection 59-14-210(1)(a)(i); or

105 (b) warning label not in compliance with 15 U.S.C. 1333 of the Federal Cigarette Labeling
106 and Advertising Act.

107 (7) Any person failing to properly affix and cancel stamps to the cigarettes under rules
108 promulgated by the commission, may be required by the commission to pay as part of the tax, a
109 penalty of \$25 for each offense, to be assessed and collected by the commission as provided in
110 Section 59-14-405. Each article, package, or container found not having proper stamps affixed to
111 it shall be deemed a separate offense. The presence of any package or container in a place of
112 business conducting retail sales shall be prima facie evidence that it is intended for sale and subject
113 to taxes under this chapter.

114 Section 4. Section **59-14-302** is amended to read:

115 **59-14-302. Tax basis -- Rate.**

116 (1) There is levied a tax upon the sale, use, or storage of tobacco products in the state. The
117 rate of the tax is [~~35%~~] 55% of the manufacturer's sales price. The sales price is the amount
118 charged by the manufacturer less all discounts, and includes original Utah destination freight

119 charges, whether the product is shipped f.o.b. origin or f.o.b. destination and regardless of who
120 pays the freight charge.

121 (2) The tax levied under Subsection (1) shall be paid by the manufacturer, jobber,
122 distributor, wholesaler, retailer, user, or consumer.

123 Section 5. **Effective date.**

124 This act takes effect on May 6, 2002, except that Section 59-14-302 takes effect on July
125 1, 2002.