

HB0337S05 compared with HB0337S04

~~{Omitted text}~~ shows text that was in HB0337S04 but was omitted in HB0337S05

inserted text shows text that was not in HB0337S04 but was inserted into HB0337S05

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1 Nicotine Product Tax Amendments

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Tyler Clancy

Senate Sponsor: Jerry W Stevenson

3 LONG TITLE

4 General Description:

5 This bill modifies provisions related to nicotine product taxes.

6 Highlighted Provisions:

7 This bill:

8 ▸ defines terms;

8 ▸ increases the rates of the taxes levied on cigarettes, electronic cigarettes, and nontherapeutic nicotine devices;

11 ▸ replaces the weight-based tax rate for moist snuff with a tax rate based on a percentage of the manufacturer's sales price;

13 ▸ replaces the weight-based tax rate for alternative nicotine products with:

14

- a per product tax rate, for alternative nicotine products that contain pouches; or

10 ▸ ~~{applies}~~ a tax rate based on a percentage of the manufacturer's sales price ~~{to moist snuff and}~~ , for alternative nicotine products that do not contain pouches; {and}

17 ▸ imposes a transitional inventory tax on cigarettes subject to the tax increase described in this bill; and

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- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

59-14-102 , as last amended by Laws of Utah 2025, Chapter 173

59-14-204 , as last amended by Laws of Utah 2016, Chapter 168

**59-14-215 , as enacted by Laws of Utah 2010, Chapter 415 and last amended by
Coordination Clause, Laws of Utah 2010, Chapter 407**

59-14-302 , as last amended by Laws of Utah 2020, Chapter 347

59-14-804 , as last amended by Laws of Utah 2023, Chapter 300

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

Section 1. Section 59-14-102 is amended to read:

59-14-102. Definitions.

As used in this chapter:

- (1) "Alternative nicotine product" means the same as that term is defined in Section 76-9-1101.
- (2) "Cigarette" means a roll made wholly or in part of tobacco:
 - (a) regardless of:
 - (i) the size of the roll;
 - (ii) the shape of the roll;
 - (iii) whether the tobacco is flavored, adulterated, or mixed with any other ingredient; or
 - (iv) whether the tobacco is heated or burned; and
 - (b) if the roll has a wrapper or cover that is made of paper or any other substance or material except tobacco.
- (3) "Cigarette rolling machine" means a device or machine that has the capability to produce at least 150 cigarettes in less than 30 minutes.
- (4) "Cigarette rolling machine operator" means a person who:
 - (a)

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- (i) controls, leases, owns, possesses, or otherwise has available for use a cigarette rolling machine; and
- (ii) makes the cigarette rolling machine available for use by another person to produce a cigarette; or
- (b) offers for sale, at retail, a cigarette produced from the cigarette rolling machine.
- (5) "Consumer" means a person that is not required:
 - (a) under Section 59-14-201 to obtain a license under Section 59-14-202;
 - (b) under Section 59-14-301 to obtain a license under Section 59-14-202; or
 - (c) to obtain a license under Section 59-14-803.
- (6) "Counterfeit cigarette" means:
 - (a) a cigarette that has a false manufacturing label; or
 - (b) a package of cigarettes bearing a counterfeit tax stamp.
- (7)
 - (a) "Electronic cigarette" means the same as that term is defined in Section 76-9-1101.
 - (b) "Electronic cigarette" does not include a cigarette or a tobacco product.
- (8) "Electronic cigarette product" means the same as that term is defined in Section 76-9-1101.
- (9) "Electronic cigarette substance" means the same as that term is defined in Section 76-9-1101.
- (10) "Importer" means a person that imports into the United States, either directly or indirectly, a finished cigarette for sale or distribution.
- (11) "Indian tribal entity" means a federally recognized Indian tribe, tribal entity, or any other person doing business as a distributor or retailer of cigarettes on tribal lands located in the state.
- (12) "Little cigar" means a roll for smoking that:
 - (a) is made wholly or in part of tobacco;
 - (b) uses an integrated cellulose acetate filter or other similar filter; and
 - (c) is wrapped in a substance:
 - (i) containing tobacco; and
 - (ii) that is not exclusively natural leaf tobacco.
- (13)
 - (a) Except as provided in Subsection (13)(b), "manufacturer" means a person that:
 - (i) manufactures, fabricates, assembles, processes, or labels a finished cigarette; or
 - (ii) makes, modifies, mixes, manufactures, fabricates, assembles, processes, labels, repackages, relabels, or imports an electronic cigarette product or a nicotine product.
 - (b) "Manufacturer" does not include a cigarette rolling machine operator.

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(14) "Moist snuff" means tobacco that:

(a) is finely cut, ground, or powdered;

(b) has at least 45% moisture content, as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(c) is not intended to be:

(i) smoked; or

(ii) placed in the nasal cavity; and

(d) except for single-use pouches of loose tobacco, is not packaged, produced, sold, or distributed in single-use units, including:

(i) tablets;

(ii) lozenges;

(iii) strips;

(iv) sticks; or

(v) packages containing multiple single-use units.

(15) "Nicotine" means the same as that term is defined in Section 76-9-1101.

(16) "Nicotine pouch product" means an alternative nicotine product that:

(a) delivers nicotine in the form of a pouch containing a solid, gel, or paste; and

(b) is intended for human consumption or placement in the oral cavity for absorption into the human body by any means other than inhalation.

~~[(16)]~~ (17) "Nicotine product" means the same as that term is defined in Section 76-9-1101.

~~[(17)]~~ (18) "Nontherapeutic nicotine device" means the same as that term is defined in Section 76-9-1101.

~~[(18)]~~ (19) "Nontherapeutic nicotine device substance" means the same as that term is defined in Section 76-9-1101.

~~[(19)]~~ (20) "Nontherapeutic nicotine product" means the same as that term is defined in Section 76-9-1101.

~~[(20)]~~ (21) "Prefilled electronic cigarette" means the same as that term is defined in Section 76-9-1101.

~~[(21)]~~ (22) "Prefilled nontherapeutic nicotine device" means the same as that term is defined in Section 76-9-1101.

~~[(22)]~~ (23) "Retailer" means a person that:

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(a) sells or distributes a cigarette, an electronic cigarette product, or a nicotine product to a consumer in the state; or

(b) intends to sell or distribute a cigarette, an electronic cigarette product, or a nicotine product to a consumer in the state.

~~[(23)]~~ (24) "Stamp" means the indicia required to be placed on a cigarette package that evidences payment of the tax on cigarettes required by Section 59-14-205.

~~[(24)]~~ (25)

(a) "Tobacco product" means a product made of, or containing, tobacco.

(b) "Tobacco product" includes:

(i) a cigarette produced from a cigarette rolling machine;

(ii) a little cigar; or

(iii) moist snuff.

(c) "Tobacco product" does not include a cigarette.

~~[(25)]~~ (26) "Tribal lands" means land held by the United States in trust for a federally recognized Indian tribe.

Section 2. Section **59-14-204** is amended to read:

59-14-204. Tax basis -- Rate -- Future increase -- Cigarette Tax Restricted Account -- Appropriation and expenditure of revenues.

(1) Except for cigarettes described under Subsection 59-14-210(3), there is levied a tax upon the sale, use, storage, or distribution of cigarettes in the state.

(2) The ~~[rates of the tax levied under Subsection (1) are, beginning on July 1, 2010:]~~ rate of the tax levied under Subsection (1) is {16-} 11 cents on each cigarette.

~~[(a) 8.5 cents on each cigarette, for all cigarettes weighing not more than three pounds per thousand cigarettes; and]~~

~~[(b) 9.963 cents on each cigarette, for all cigarettes weighing in excess of three pounds per thousand cigarettes.]~~

(3) Except as otherwise provided under this chapter, the tax levied under Subsection (1) shall be paid by any person who is the manufacturer, jobber, importer, distributor, wholesaler, retailer, user, or consumer.

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

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40 (5)

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

42 (b) The Cigarette Tax Restricted Account consists of:

43 (i) the first \$7,950,000 of the revenues collected from a tax under this section; and

44 (ii) any other appropriations the Legislature makes to the Cigarette Tax Restricted Account.

46 (c) For each fiscal year beginning with fiscal year 2011-12 and subject to appropriation by the Legislature, the Division of Finance shall distribute money from the Cigarette Tax Restricted Account as follows:

49 (i) \$250,000 to the Department of Health to be expended for a tobacco prevention and control media campaign targeted towards children;

51 (ii) \$2,900,000 to the Department of Health to be expended for tobacco prevention, reduction, cessation, and control programs;

53 (iii) \$2,000,000 to the University of Utah Health Sciences Center for the Huntsman Cancer Institute to be expended for cancer research; and

55 (iv) \$2,800,000 to the University of Utah Health Sciences Center to be expended for medical education at the University of Utah School of Medicine.

57 (d) In determining how to appropriate revenue deposited into the Cigarette Tax Restricted Account that is not otherwise appropriated under Subsection (5)(c), the Legislature shall give particular consideration to enhancing Medicaid provider reimbursement rates and medical coverage for the uninsured.

168 Section 3. Section 59-14-215 is amended to read:

169 **59-14-215. Transitional inventory tax on cigarettes -- Penalties and interest for failure to
comply -- Credit or refund for outdated, unaffixed stamps.**

171 (1) In addition to the tax described in Section 59-14-204, there is imposed, beginning on July 1,
[2010] 2026, an inventory tax on all cigarettes subject to the tax described in Section 59-14-204,
upon the sale, use, storage, or distribution of those cigarettes in the state, as follows:

175 (a) the tax imposed in this section applies only to cigarettes sold, used, stored, or distributed in the state
on or after July 1, [2010] 2026:

177 (i) that have a stamp that reflects that the tax paid on those cigarettes was paid at the tax rate imposed
under Section 59-14-204 that was applicable on June 30, [2010] 2026; and

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- 180 (ii) for which the tax imposed in this section has not been paid; and
181 (b) the tax imposed in this section is equal to the difference between:
182 (i) the tax imposed on those cigarettes under Section 59-14-204, beginning on July 1, [2010] 2026; and
184 (ii) the tax imposed on those cigarettes under Section 59-14-204 on or before June 30, [2010] 2026.
186 (2) Except as otherwise provided under this chapter, the tax imposed under this section shall be paid by
any person who is the manufacturer, jobber, importer, distributor, wholesaler, or retailer.
189 (3) A person described in Subsection (2) shall remit the tax imposed in this section, on a return
prescribed by the commission, on or before July 31, [2010] 2026.
191 (4) Failure of a person to comply with the requirements of this section subjects the person to the
penalties and interest described in Sections 59-1-401 and 59-1-402.
193 (5) The commission may not waive the interest or penalties imposed on a person for failure to comply
with the requirements of this section.
195 (6)
(a) Beginning on July 1, [2010] 2026, it is unlawful to affix a stamp to cigarettes that reflects payment
of the tax imposed under Section 59-14-204 at the rate that was applicable on or before June 30,
[2010] 2026.
198 (b) A person who violates Subsection (6)(a) may be required by the commission to pay as part of the
tax, and in addition to any other penalty provided in this chapter, a penalty of \$25 for each offense,
to be assessed and collected by the commission in accordance with Chapter 1, Part 14, Assessment,
Collections, and Refunds Act.
202 (c) A person who, on or after July 1, [2010] 2026, possesses tax stamps described in Subsection (6)(a)
may return the stamps to the commission for a credit or refund.
- 204 Section 4. Section **59-14-302** is amended to read:
205 **59-14-302. Tax basis -- Rates.**
63 (1) As used in this section:
64 (a) "Manufacturer's sales price" means the amount the manufacturer of a tobacco product charges after
subtracting a discount.
66 (b) "Manufacturer's sales price" includes an original Utah destination freight charge, regardless of:
68 (i) whether the tobacco product is shipped f.o.b. origin or f.o.b. destination; or
69 (ii) who pays the original Utah destination freight charge.
70 (2) There is levied a tax upon the sale, use, or storage of tobacco products in the state.

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- 71 (3)
- (a) Subject to Subsection (3)(b), the tax levied under Subsection (2) shall be paid by the manufacturer, jobber, distributor, wholesaler, retailer, user, or consumer.
- 73 (b) The tax levied under Subsection (2) on a cigarette produced from a cigarette rolling machine shall be paid by the cigarette rolling machine operator.
- 75 (4) For tobacco products except for moist snuff, a little cigar, or a cigarette produced from a cigarette rolling machine, the amount of the tax under this section is .86 multiplied by the manufacturer's sales price.
- 78 (5) The amount of the tax under this section on moist snuff is .73 multiplied by the manufacturer's sales price.
- 80 [~~(5)~~
- (a) ~~Subject to Subsection (5)(b), the tax under this section on moist snuff is imposed:]~~
- 81 [~~(i) at a rate of \$1.83 per ounce; and]~~
- 82 [~~(ii) on the basis of the net weight of the moist snuff as listed by the manufacturer.]~~
- 83 [~~(b) If the net weight of moist snuff is in a quantity that is a fractional part of one ounce, a proportionate amount of the tax described in Subsection (5)(a) is imposed:]~~
- 85 [~~(i) on that fractional part of one ounce; and]~~
- 86 [~~(ii) in accordance with rules made by the commission in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.]~~
- 88 (6)
- (a) A little cigar is taxed at the same tax rates as a cigarette is taxed under Subsection 59-14-204(2).
- 90 (b)
- (i) Subject to Subsection (6)(b)(ii), a cigarette produced from a cigarette rolling machine is taxed at the same tax rates as a cigarette is taxed under Subsection 59-14-204(2).
- 93 (ii) A tax under this Subsection (6)(b) is imposed on the date the cigarette is produced from the cigarette rolling machine.
- 95 (7)
- (a) Moisture content of a tobacco product is determined at the time of packaging.
- 96 (b) A manufacturer who distributes a tobacco product in, or into, Utah, shall:
- 97

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- (i) for a period of three years after the last day on which the manufacturer distributes the tobacco product in, or into, Utah, keep valid scientific evidence of the moisture content of the tobacco product available for review by the commission, upon demand; and
- 101 (ii) provide a document, to the person described in Subsection (3) to whom the manufacturer distributes the tobacco product, that certifies the moisture content of the tobacco product, as verified by the scientific evidence described in Subsection (7)(b)(i).
- 105 (c) A manufacturer who fails to comply with the requirements of Subsection (7)(b) is liable for the nonpayment or underpayment of taxes on the tobacco product by a person who relies, in good faith, on the document described in Subsection (7)(b)(ii).
- 108 (d) A person described in Subsection (3) who is required to pay tax on a tobacco product:
- 109 (i) shall, for a period of three years after the last day on which the person pays the tax on the tobacco product, keep the document described in Subsection (7)(b)(ii) available for review by the commission, upon demand; and
- 112 (ii) is not liable for nonpayment or underpayment of taxes on the tobacco product due to the person's good faith reliance on the document described in Subsection (7)(b)(ii).

258 Section 5. Section **59-14-804** is amended to read:

259 **59-14-804. Taxation of electronic cigarette substance, prefilled electronic cigarette, alternative nicotine product, nontherapeutic nicotine device substance, and prefilled nontherapeutic nicotine device.**

- 119 (1)
- (a) Beginning on July 1, 2020, a tax is imposed upon the following:
 - 120 (i) an electronic cigarette substance; and
 - 121 (ii) a prefilled electronic cigarette.
- 122 (b) Beginning on July 1, 2021, a tax is imposed upon the following:
 - 123 (i) a nontherapeutic nicotine device substance; and
 - 124 (ii) a prefilled nontherapeutic nicotine device.
- 125 (c) Beginning on July 1, 2021, a tax is imposed upon an alternative nicotine product.
- 126 (2)
- (a) The amount of tax imposed under Subsections (1)(a) and (b) is ~~[:56]~~ .71 multiplied by the manufacturer's sales price.
- 128 (b)

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(i) The amount of tax imposed under Subsection (1)(c) on an alternative nicotine product ~~that~~ is {~~.73~~
~~multiplied by~~} a nicotine pouch product is the {manufacturer's sales price.} ~~sum of:~~

~~{(b)}~~

~~{(i)}~~ }

~~(A) \$1; and~~

5 cents on each pouch contained within the alternative nicotine product in excess of 20 pouches.

(ii) The amount of tax imposed under Subsection (1)(c) on an alternative nicotine product that is not a
nicotine pouch product is .73 multiplied by the manufacturer's sales price.

~~(b)~~

~~(i) The tax under Subsection (1)(c) on an alternative nicotine product is imposed:]~~

~~[(A) at a rate of \$1.83 per ounce; and]~~

~~[(B) on the basis of the net weight of the alternative nicotine product as listed by the manufacturer.]~~

~~[(ii) If the net weight of the alternative nicotine product is in a quantity that is a fractional part of one
ounce, a proportionate amount of the tax described in Subsection (2)(b)(i)(A) is imposed:]~~

~~[(A) on that fractional part of one ounce; and]~~

~~[(B) in accordance with rules made by the commission in accordance with Title 63G, Chapter 3, Utah
Administrative Rulemaking Act.]~~

(3) If a product is sold in the same package as a product that is taxed under Subsection (1), the tax
described in Subsection (2) shall apply to the wholesale manufacturer's sale price of the entire
packaged product.

(4)

(a) A manufacturer, jobber, distributor, wholesaler, retailer, consumer, or user shall pay the tax levied
under Subsection (1) at the time that an electronic cigarette substance, a prefilled electronic
cigarette, an alternative nicotine product, a nontherapeutic nicotine device substance, or a prefilled
nontherapeutic nicotine device is first received in the state.

(b) A manufacturer, jobber, distributor, wholesaler, retailer, consumer, or user may not resell an
electronic cigarette substance, a prefilled electronic cigarette, an alternative nicotine product, a
nontherapeutic nicotine device substance, or a prefilled nontherapeutic nicotine device to another
distributor, another retailer, or a consumer before paying the tax levied under Subsection (1).

(5)

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(a) The manufacturer, jobber, distributor, wholesaler, retailer, consumer, or user shall remit the taxes collected in accordance with this section to the commission.

155 (b) The commission shall deposit revenues generated by the tax imposed by this section into the Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account created in Section 59-14-807.

308 Section 6. **Effective date.**

Effective Date.

This bill takes effect on July 1, 2026.

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