

Senator Allen M. Christensen proposes the following substitute bill:

TOBACCO TAX AMENDMENTS

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Allen M. Christensen

House Sponsor: Paul Ray

LONG TITLE

General Description:

This bill amends the Cigarette and Tobacco Tax Act by increasing the tax rates on the sale, use, storage, or distribution of cigarettes in the state and the sale, use, or storage of tobacco products in the state.

Highlighted Provisions:

This bill:

- ▶ increases the tax rate for the sale, use, storage, or distribution of cigarettes in the state and for the sale, use, or storage of tobacco products in the state, as follows:
 - for cigarettes weighing not more than three pounds per thousand cigarettes, from 3.475 cents per cigarette to 8.5 cents per cigarette;
 - for cigarettes weighing in excess of three pounds per thousand cigarettes, from 4.075 cents per cigarette to 9.963 cents per cigarette;
 - for tobacco products, except moist snuff, from 35% to 86% of the manufacturer's sale price; and
 - for moist snuff, from \$.75 to \$1.83 per ounce;
- ▶ allocates money from funds generated by the tax increase described in this bill;
- ▶ imposes a transitional inventory tax on cigarettes and tobacco products subject to the tax increase described in this bill; and



26 ▶ makes technical changes.

27 **Monies Appropriated in this Bill:**

28 None

29 **Other Special Clauses:**

30 This bill takes effect on July 1, 2010.

31 This bill coordinates with H.B. 196, Tobacco Tax Revisions, by providing substantive
32 amendments.

33 **Utah Code Sections Affected:**

34 AMENDS:

35 **59-14-204**, as last amended by Laws of Utah 2008, Chapter 382

36 **59-14-302**, as last amended by Laws of Utah 2008, Chapter 204

37 ENACTS:

38 **59-14-215**, Utah Code Annotated 1953

39 **59-14-304**, Utah Code Annotated 1953

40 **Utah Code Sections Affected by Coordination Clause:**

41 **59-14-204**, as last amended by Laws of Utah 2008, Chapter 382

42 **59-14-215**, Utah Code Annotated 1953

43 **59-14-302**, as last amended by Laws of Utah 2008, Chapter 204

44 **59-14-304**, Utah Code Annotated 1953

45 **63J-1-201**, as last amended by Laws of Utah 2009, Chapters 183 and 368



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

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

49 **59-14-204. Tax basis -- Rate -- Future increase -- Restricted account -- Use of**
50 **revenues.**

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

53 (2) The rates of the tax levied under Subsection (1) are, beginning on July 1, 2010:

54 (a) [~~3.475~~] 8.5 cents on each cigarette, for all cigarettes weighing not more than three
55 pounds per thousand cigarettes; and

56 (b) [~~4.075~~] 9.963 cents on each cigarette, for all cigarettes weighing in excess of three

57 pounds per thousand cigarettes.

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

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

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

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

68 (c) The Department of Health shall expend the funds deposited in the account under
69 Subsection (5)(b) for a tobacco prevention and control media campaign targeted towards
70 children.

71 (d) The following revenue generated from the tax increase imposed under Subsection
72 (1) during the 2002 General Session shall be deposited in the Cigarette Tax Restricted
73 Account:

74 (i) 22% of the revenue to be annually appropriated to the Department of Health for
75 tobacco prevention, reduction, cessation, and control programs;

76 (ii) 15% of the revenue to be annually appropriated to the University of Utah Health
77 Sciences Center for the Huntsman Cancer Institute for cancer research; and

78 (iii) 21% of the revenue to be annually appropriated to the University of Utah Health
79 Sciences Center for medical education at the University of Utah School of Medicine.

80 (e) \$250,000 of the revenue generated from the tax increase imposed under this section
81 during the 2010 General Session shall be annually appropriated to the Department of Health for
82 use in the Gold Medal Schools Program.

83 [~~(e)~~] (f) Any balance remaining in the Cigarette Tax Restricted Account at the end of
84 the fiscal year shall be appropriated during the next fiscal year for the purposes set forth in
85 Subsections (5)(d)(i) through (5)(d)(iii) in proportion to the amount of revenue deposited into
86 the account for each purpose.

87 [~~(f)~~] (g) The Legislature shall give particular consideration to appropriating any

88 revenues resulting from the change in tax rates under Subsection (2) adopted during the 2002
89 Annual General Session and not otherwise appropriated pursuant to Subsection (5)(d) to
90 enhance Medicaid provider reimbursement rates and medical coverage for the uninsured.

91 ~~(g)~~ (h) Any program or entity that receives funding under Subsection (5)(d) or (e)
92 shall provide an annual report to the Health and Human Services Interim Committee no later
93 that September 1 of each year. The report shall include:

- 94 (i) the amount funded;
95 (ii) the amount expended;
96 (iii) a description of the effectiveness of the program; and
97 (iv) if the program is a tobacco cessation program, the report required in Section
98 51-9-203.

99 Section 2. Section **59-14-215** is enacted to read:

100 **59-14-215. Transitional inventory tax on cigarettes -- Penalties and interest for**
101 **failure to comply -- Credit or refund for outdated, unaffixed, stamps.**

102 (1) In addition to the tax described in Section 59-14-204, there is imposed, beginning
103 on July 1, 2010, an inventory tax on all cigarettes subject to the tax described in Section
104 59-14-204, upon the sale, use, storage, or distribution of those cigarettes in the state, as
105 follows:

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

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

110 (ii) for which the tax imposed in this section has not been paid; and

111 (b) the tax imposed in this section is equal to the difference between:

112 (i) the tax imposed on those cigarettes under Section 59-14-204, beginning on July 1,
113 2010; and

114 (ii) the tax imposed on those cigarettes under Section 59-14-204 on or before June 30,
115 2010.

116 (2) Except as otherwise provided under this chapter, the tax imposed under this section
117 shall be paid by any person who is the manufacturer, jobber, importer, distributor, wholesaler,
118 or retailer.

119 (3) A person described in Subsection (2) shall remit the tax imposed in this section, on
120 a return prescribed by the commission, on or before July 31, 2010.

121 (4) Failure of a person to comply with the requirements of this section subjects the
122 person to the penalties and interest described in Sections 59-1-401 and 59-1-402.

123 (5) The commission may not waive the interest or penalties imposed on a person for
124 failure to comply with the requirements of this section.

125 (6) (a) Beginning on July 1, 2010, it is unlawful to affix a stamp to cigarettes that
126 reflects payment of the tax imposed under Section 59-14-204 at the rate that was applicable on
127 or before June 30, 2010.

128 (b) A person who violates Subsection (6)(a) may be required by the commission to pay
129 as part of the tax, and in addition to any other penalty provided in this chapter, a penalty of \$25
130 for each offense, to be assessed and collected by the commission in accordance with Chapter 1,
131 Part 14, Assessment, Collections, and Refunds Act.

132 (c) A person who, on or after July 1, 2010, possesses tax stamps described in
133 Subsection (6)(a), may return the stamps to the commission for a credit or refund.

134 Section 3. Section **59-14-302** is amended to read:

135 **59-14-302. Tax basis -- Rates.**

136 (1) As used in this section:

137 (a) "Manufacturer's sales price" means the amount the manufacturer of a tobacco
138 product charges after subtracting a discount.

139 (b) "Manufacturer's sales price" includes an original Utah destination freight charge,
140 regardless of:

141 (i) whether the tobacco product is shipped f.o.b. origin or f.o.b. destination; or

142 (ii) who pays the original Utah destination freight charge.

143 (2) There is levied a tax upon the sale, use, or storage of tobacco products in the state.

144 (3) The tax levied under Subsection (2) shall be paid by the manufacturer, jobber,
145 distributor, wholesaler, retailer, user, or consumer.

146 (4) The rate of the tax under this section is, beginning on July 1, 2010:

147 (a) for tobacco products except for moist snuff, [~~35% of~~] .86 multiplied by the
148 manufacturer's sales price; [~~or~~] and

149 (b) subject to Subsection (5), for moist snuff, [~~\$.75~~] \$1.83 per ounce.

150 (5) (a) The tax under this section on moist snuff shall be imposed on the basis of the
151 net weight of the moist snuff as listed by the manufacturer.

152 (b) If the net weight of moist snuff is in a quantity that is a fractional part of one ounce,
153 a proportionate amount of the tax described in Subsection (4)(b) is imposed:

154 (i) on that fractional part of one ounce; and

155 (ii) in accordance with rules made by the commission in accordance with Title 63G,
156 Chapter 3, Utah Administrative Rulemaking Act.

157 Section 4. Section **59-14-304** is enacted to read:

158 **59-14-304. Transitional inventory tax on tobacco products -- Penalties and**
159 **interest for failure to comply.**

160 (1) In addition to the tax described in Section 59-14-302, there is imposed, beginning
161 on July 1, 2010, an inventory tax on all tobacco products subject to the tax described in Section
162 59-14-302, upon the sale, use, or storage of those tobacco products in the state, as follows:

163 (a) the tax imposed in this section applies only to tobacco products sold, used, or stored
164 in the state on or after July 1, 2010:

165 (i) for which the tax was paid at the tax rate imposed under Section 59-14-302 that was
166 applicable on June 30, 2010; and

167 (ii) for which the tax imposed in this section has not been paid; and

168 (b) the tax imposed in this section is equal to the difference between:

169 (i) the tax imposed on those tobacco products under Section 59-14-302, beginning on
170 July 1, 2010; and

171 (ii) the tax imposed on those tobacco products under Section 59-14-302 on or before
172 June 30, 2010.

173 (2) The tax imposed in this section shall be paid by the manufacturer, jobber,
174 distributor, wholesaler, or retailer.

175 (3) A person described in Subsection (2) shall remit the tax imposed in this section, in
176 a return prescribed by the commission, on or before July 31, 2010.

177 (4) Failure of a person to comply with the requirements of this section subjects the
178 person to the penalties and interest described in Sections 59-1-401 and 59-1-402.

179 (5) The commission may not waive the interest or penalties imposed on a person for
180 failure to comply with the requirements of this section.

181 Section 5. **Effective date.**

182 This bill takes effect on July 1, 2010.

183 Section 6. **Coordinating S.B. 40 with H.B. 196, Tobacco Tax Revisions --**

184 **Substantive amendments.**

185 If this S.B. 40 and H.B. 196, Tobacco Tax Revisions, both pass, it is the intent of the
186 Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah
187 Code database for publication as follows:

188 (1) the amendments to Section 59-14-204 in S.B. 40 supersede the amendments to
189 Section 59-14-204 in H.B. 196;

190 (2) the amendments to Section 59-14-302 in S.B. 40 supersede the amendments to
191 Section 59-14-302 in H.B. 196;

192 (3) the amendments to Section 59-14-215 in S.B. 40 supersede the amendments to
193 Section 59-14-215 in H.B. 196;

194 (4) the amendments to Section 59-14-304 in S.B. 40 supersede the amendments to
195 Section 59-14-304 in H.B. 196;

196 (5) the amendments to Section 63J-1-201 in H.B. 196, Tobacco Tax Revisions, do not
197 take effect; and

198 (6) the effective date of H.B. 196 is July 1, 2010.