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SENATE BILL 7

**49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SPECIAL SESSION, 2010**

INTRODUCED BY

Bernadette M. Sanchez

AN ACT

RELATING TO TAXATION; INCREASING THE CIGARETTE TAX BY FIFTY  
CENTS (\$.50) PER PACK; ADJUSTING CIGARETTE STAMP DISCOUNTS;  
ADJUSTING CIGARETTE TAX DISTRIBUTIONS; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-1-6.11 NMSA 1978 (being Laws 1983,  
Chapter 211, Section 16, as amended) is amended to read:

"7-1-6.11. DISTRIBUTIONS OF CIGARETTE TAXES.--

A. A distribution pursuant to Section 7-1-6.1 NMSA  
1978 shall be made to the county and municipality recreational  
fund in an amount equal to [~~one and thirty-five hundredths~~] one  
and eight-hundredths percent of the net receipts, exclusive of  
penalties and interest, attributable to the cigarette tax.

B. A distribution pursuant to Section 7-1-6.1 NMSA  
1978 shall be made to the county and municipal cigarette tax

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1 fund in an amount equal to [~~two and sixty-nine hundredths~~] two  
2 and fifteen-hundredths percent of the net receipts, exclusive  
3 of penalties and interest, attributable to the cigarette tax.

4 C. A distribution pursuant to Section 7-1-6.1 NMSA  
5 1978 shall be made to the cancer research and treatment center  
6 at the university of New Mexico health sciences center in an  
7 amount equal to [~~one and thirty-five hundredths~~] one and eight-  
8 hundredths percent of the net receipts, exclusive of penalties  
9 and interest, attributable to the cigarette tax.

10 D. A distribution pursuant to Section 7-1-6.1 NMSA  
11 1978 shall be made to the New Mexico finance authority in an  
12 amount equal to [~~two and two-hundredths~~] one and sixty-one  
13 hundredths percent of the net receipts, exclusive of penalties  
14 and interest, attributable to the cigarette tax.

15 E. A distribution pursuant to Section 7-1-6.1 NMSA  
16 1978 in an amount equal to [~~fourteen and thirty-seven~~  
17 ~~hundredths~~] eleven and forty-nine hundredths percent of the net  
18 receipts, exclusive of penalties and interest, attributable to  
19 the cigarette tax, shall be made, on behalf of and for the  
20 benefit of the university of New Mexico health sciences center,  
21 to the New Mexico finance authority.

22 F. A distribution pursuant to Section 7-1-6.1 NMSA  
23 1978 in an amount equal to [~~six and five-hundredths~~] four and  
24 eighty-four hundredths percent of the net receipts, exclusive  
25 of penalties and interest, attributable to the cigarette tax

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1 shall be made to the New Mexico finance authority for land  
2 acquisition and the planning, designing, construction and  
3 equipping of department of health facilities or improvements to  
4 such facilities.

5 G. A distribution pursuant to Section 7-1-6.1 NMSA  
6 1978 in an amount equal to [~~fifteen and seventy-nine~~  
7 ~~hundredths~~] twelve and sixty-three hundredths percent of the  
8 net receipts, exclusive of penalties and interest, attributable  
9 to the cigarette tax shall be made to the New Mexico finance  
10 authority for deposit in the credit enhancement account created  
11 in the authority.

12 H. A distribution pursuant to Section 7-1-6.1 NMSA  
13 1978 in an amount equal to [~~one~~] eight-tenths percent of the  
14 net receipts, exclusive of penalties and interest, attributable  
15 to the cigarette tax shall be made, on behalf of and for the  
16 benefit of the rural county cancer treatment fund, to the New  
17 Mexico finance authority."

18 Section 2. Section 7-12-3 NMSA 1978 (being Laws 1971,  
19 Chapter 77, Section 3, as amended) is amended to read:

20 "7-12-3. EXCISE TAX ON CIGARETTES--RATES.--

21 A. For the privilege of selling, giving or  
22 consuming cigarettes in New Mexico, there is levied an excise  
23 tax at the following rates for each cigarette sold, given or  
24 consumed in this state:

25 (1) [~~four and fifty-five hundredths cents~~

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1 ~~(\$.0455)~~ seven and five-hundredths cents (\$.0705) if the  
2 cigarettes are packaged in lots of twenty or twenty-five;

3 (2) [~~nine and ten-hundredths cents (\$.091)~~]  
4 fourteen and ten-hundredths cents (\$.141) if the cigarettes are  
5 packaged in lots of ten; or

6 (3) [~~eighteen and twenty-hundredths cents~~  
7 ~~(\$.182)~~] twenty-eight and twenty-hundredths cents (\$.282) if  
8 the cigarettes are packaged in lots of five.

9 B. The tax imposed by this section shall be  
10 referred to as the "cigarette tax".

11 Section 3. Section 7-12-7 NMSA 1978 (being Laws 1971,  
12 Chapter 77, Section 7, as amended by Laws 2006, Chapter 89,  
13 Section 3 and by Laws 2006, Chapter 91, Section 6) is amended  
14 to read:

15 "7-12-7. SALE OF STAMPS--PRICES.--

16 A. Only the department shall sell stamps. Stamps  
17 may be sold by the department only to a distributor.

18 B. Stamps shall display a serial number. Stamps  
19 bearing the same serial number shall not be sold to more than  
20 one distributor. The department shall keep records of the  
21 serial numbers of the stamps provided to each distributor.

22 C. A stamp shall be affixed to a package of  
23 cigarettes in such a manner as to clearly display the serial  
24 number at the point of sale.

25 D. Tax stamps shall be sold at their face value

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1 with the following discounts:

2 (1) [~~one~~] sixty-five hundredths percent less  
3 than the face value of the first thirty thousand dollars  
4 (\$30,000) of stamps purchased in one calendar month;

5 (2) [~~eight-tenths~~] one-half percent less than  
6 the face value of the second thirty thousand dollars (\$30,000)  
7 of stamps purchased in one calendar month; and

8 (3) [~~one-half~~] thirty-two hundredths percent  
9 less than the face value of stamps purchased in excess of sixty  
10 thousand dollars (\$60,000) in one calendar month.

11 E. If the face value of tax stamps sold in a single  
12 sale is less than one thousand dollars (\$1,000), the discount  
13 provided for in this section shall not be allowed.

14 F. Payment for tax stamps shall be made on or  
15 before the twenty-fifth day of the month following the month in  
16 which the sale of stamps by the department is made.

17 G. Tax-exempt stamps shall be provided only to  
18 distributors and shall be free of charge; provided that the  
19 distributor is in full compliance with the reporting  
20 requirements of the Cigarette Tax Act and rules adopted  
21 pursuant to that act."

22 Section 4. APPLICABILITY.--The distributions pursuant to  
23 the provisions of Section 1 of this act apply to receipts from  
24 the cigarette tax that are attributable to sales that occur:

25 A. on or after March 1, 2010 if this act is adopted

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1 by a two-thirds' vote of each house; or

2 B. on or after July 1, 2010 if this act is adopted  
3 by less than a two-thirds' vote of each house.

4 Section 5. CONTINGENT EFFECTIVE DATE.--The effective date  
5 of the provisions of this act is March 1, 2010; provided that  
6 the act is adopted by a two-thirds' vote of each house. If  
7 this act is passed by both houses and is passed by less than a  
8 two-thirds' vote of either house, the effective date of the  
9 provisions of this act is July 1, 2010.

10 Section 6. EMERGENCY.--It is necessary for the public  
11 peace, health and safety that this act take effect immediately.