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HOUSE BILL 300

**52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016**

INTRODUCED BY

D. Wonda Johnson

AN ACT

RELATING TO TOBACCO; INCREASING THE CIGARETTE TAX RATES;  
INCREASING THE TOBACCO PRODUCTS TAX RATE; EXPANDING THE TYPES  
OF PRODUCTS SUBJECT TO THE TOBACCO PRODUCTS TAX.

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

**SECTION 1.** Section 7-12-3 NMSA 1978 (being Laws 1971,  
Chapter 77, Section 3, as amended) is amended to read:

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

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

(1) [~~eight and three-tenths cents (\$.083)~~]  
thirteen and three-tenths cents (\$.133) if the cigarettes are  
packaged in lots of twenty or twenty-five;

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1                   (2) [~~sixteen and six-tenths cents (\$.166)~~]  
2     twenty-six and six-tenths cents (\$.266) if the cigarettes are  
3     packaged in lots of ten; or

4                   (3) [~~thirty-three and two-tenths cents~~  
5      ~~(\$.332)~~] fifty-three and two-tenths cents (\$.532) if the  
6     cigarettes are packaged in lots of five.

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

9                   SECTION 2. Section 7-12A-2 NMSA 1978 (being Laws 1986,  
10     Chapter 112, Section 3, as amended) is amended to read:

11                   "7-12A-2. DEFINITIONS.--As used in the Tobacco Products  
12     Tax Act:

13                   A. "department" means the taxation and revenue  
14     department, the secretary or any employee of the department  
15     exercising authority lawfully delegated to that employee by the  
16     secretary;

17                   B. "distribute" means to sell or to give;

18                   C. "engaging in business" means carrying on or  
19     causing to be carried on any activity with the purpose of  
20     direct or indirect benefit;

21                   D. "first purchaser" means a person engaging in  
22     business in New Mexico who manufactures tobacco products or who  
23     purchases or receives on consignment tobacco products from any  
24     person outside of New Mexico, which tobacco products are to be  
25     distributed in New Mexico in the ordinary course of business;

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1 E. "person" means [~~any~~] an individual, estate,  
2 trust, receiver, cooperative association, club, corporation,  
3 company, firm, partnership, joint venture, syndicate, limited  
4 liability company, limited liability partnership, other  
5 association or gas, water or electric utility owned or operated  
6 by a county or municipality or other entity of the state;  
7 "person" also means, to the extent permitted by law, a federal,  
8 state or other governmental unit or subdivision or an agency,  
9 department or instrumentality;

10 F. "product value" means the amount paid, net of  
11 any discounts taken and allowed, for tobacco products or, in  
12 the case of tobacco products received on consignment, the value  
13 of the tobacco products received or, in the case of tobacco  
14 products manufactured and sold in New Mexico, the proceeds from  
15 the sale by the manufacturer of the tobacco products; and

16 G. "tobacco product":

17 (1) means [~~any~~]:

18 (a) a product, other than cigarettes,  
19 that is made [~~from or containing~~] of, contains or is derived  
20 from tobacco or nicotine and that is intended for human  
21 consumption through means that include smoking, heating,  
22 chewing, absorption, dissolution, inhalation, snorting and  
23 sniffing; or

24 (b) an electronic device that delivers  
25 nicotine or other substances to the person inhaling from the

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1 device;

2 (2) includes:

3 (a) a component, part or accessory of a  
4 tobacco product, regardless of whether it is sold separately;  
5 and

6 (b) a cigar, chewing tobacco, pipe  
7 tobacco, snuff, an electronic cigarette, an electronic cigar,  
8 an electronic pipe and an electronic hookah; and

9 (3) excludes a product that is:

10 (a) approved by the United States food  
11 and drug administration for sale as a tobacco cessation product  
12 or for another therapeutic purpose; and

13 (b) marketed and sold solely for that  
14 approved purpose."

15 SECTION 3. Section 7-12A-3 NMSA 1978 (being Laws 1986,  
16 Chapter 112, Section 4, as amended) is amended to read:

17 "7-12A-3. IMPOSITION AND RATE OF TAX--DENOMINATION AS  
18 "TOBACCO PRODUCTS TAX"--DATE PAYMENT OF TAX DUE.--

19 A. For the privilege of engaging in business to  
20 manufacture, [~~or acquisition of~~] acquire or distribute tobacco  
21 products [~~in New Mexico to be distributed~~] in the ordinary  
22 course of business and for the [~~consumption of~~] privilege of  
23 consuming tobacco products in New Mexico, there is imposed an  
24 excise tax at the rate of [~~twenty-five~~] sixty-six percent of  
25 the product value of the tobacco products.

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B. The tax imposed by Subsection A of this section may be referred to as the "tobacco products tax".

C. The tobacco products tax shall be paid by the first purchaser on or before the twenty-fifth day of the month following the month in which the taxable event occurs."

**SECTION 4. EFFECTIVE DATE.**--The effective date of the provisions of this act is July 1, 2016.