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SENATE BILL

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

INTRODUCED BY

Martin Hickey

FOR THE REVENUE STABILIZATION AND TAX POLICY COMMITTEE

AN ACT

RELATING TO TAXATION; INCREASING THE RATE OF THE CIGARETTE TAX AND PROPORTIONALLY ADJUSTING THE DISCOUNTS ON CIGARETTE TAX STAMPS; INCREASING THE RATE OF THE TOBACCO PRODUCTS TAX; INCLUDING NICOTINE, REGARDLESS OF SOURCE, IN THE DEFINITION OF "TOBACCO PRODUCT" IN THE TOBACCO PRODUCTS TAX ACT; DISTRIBUTING THE REVENUE FROM THE INCREASES IN THE TAXES TO A NEW NICOTINE USE PREVENTION AND CONTROL FUND; MAKING AN APPROPRIATION.

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

SECTION 1. [NEW MATERIAL] NICOTINE USE PREVENTION AND CONTROL FUND.--The "nicotine use prevention and control fund" is created in the state treasury. The fund consists of appropriations, donations, interest from investment of the fund and other money distributed to the fund. The fund shall be administered by the department of health, and money in the fund

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1 is subject to appropriation by the legislature to provide funds
2 to that department to, in collaboration with the public
3 education department and the higher education department,
4 develop programs, educational materials and social and
5 traditional media advertising on nicotine use prevention and
6 control for persons five to twenty-five years of age.

7 Disbursements from the fund shall be made by warrant of the
8 secretary of finance and administration pursuant to vouchers
9 signed by the secretary of health or the secretary's designee.
10 Any unexpended balance remaining at the end of a fiscal year
11 shall revert to the general fund.

12 SECTION 2. Section 7-1-6.11 NMSA 1978 (being Laws 1983,
13 Chapter 211, Section 16, as amended) is amended to read:

14 "7-1-6.11. DISTRIBUTIONS OF CIGARETTE TAXES.--

15 A. A distribution pursuant to Section 7-1-6.1 NMSA
16 1978 shall be made to the board of regents of the university of
17 New Mexico for the benefit of the comprehensive cancer center
18 at the university of New Mexico health sciences center in an
19 amount equal to seventy-one hundredths percent of the net
20 receipts, exclusive of penalties and interest, attributable to
21 the cigarette tax.

22 B. A distribution pursuant to Section 7-1-6.1 NMSA
23 1978 in an amount equal to [~~seven and fifty-two hundredths~~]
24 five and one-half percent of the net receipts, exclusive of
25 penalties and interest, attributable to the cigarette tax,

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1 shall be made on behalf of and for the benefit of the
2 university of New Mexico health sciences center for its
3 comprehensive cancer center, until payment of all principal,
4 interest and other expenses or obligations related to the bonds
5 authorized pursuant to Section [~~3 of this 2021 act~~] 6-21-6.15
6 NMSA 1978 and the New Mexico finance authority certifies to the
7 secretary of taxation and revenue that all obligations for the
8 bonds have been fully discharged, to the credit enhancement
9 account.

10 C. A distribution pursuant to Section 7-1-6.1 NMSA
11 1978 in an amount equal to [~~three and seventeen hundredths~~] two
12 and seven-tenths percent of the net receipts, exclusive of
13 penalties and interest, attributable to the cigarette tax shall
14 be made to the New Mexico finance authority for land
15 acquisition and the planning, designing, construction and
16 equipping of department of health facilities or improvements to
17 such facilities.

18 D. A distribution pursuant to Section 7-1-6.1 NMSA
19 1978 in an amount equal to [~~eight and twenty-six hundredths~~]
20 six and three-tenths percent of the net receipts, exclusive of
21 penalties and interest, attributable to the cigarette tax shall
22 be made to the New Mexico finance authority for deposit in the
23 credit enhancement account created in the authority.

24 E. A distribution pursuant to Section 7-1-6.1 NMSA
25 1978 in an amount equal to fifty-three hundredths percent of

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1 the net receipts, exclusive of penalties and interest,
2 attributable to the cigarette tax shall be made, on behalf of
3 and for the benefit of the rural county cancer treatment fund,
4 to the New Mexico finance authority.

5 F. A distribution pursuant to Section 7-1-6.1 NMSA
6 1978 in an amount equal to twenty-eight and one-half percent of
7 the net receipts attributable to the cigarette tax shall be
8 distributed to the nicotine use prevention and control fund."

9 SECTION 3. A new section of the Tax Administration Act is
10 enacted to read:

11 "[NEW MATERIAL] DISTRIBUTION--TOBACCO PRODUCTS
12 TAX--NICOTINE USE PREVENTION AND CONTROL FUND.--A distribution
13 pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the
14 nicotine use prevention and control fund in an amount equal to
15 sixty-five percent of the net receipts attributable to the
16 tobacco products tax."

17 SECTION 4. Section 7-12-3 NMSA 1978 (being Laws 1971,
18 Chapter 77, Section 3, as amended) is amended to read:

19 "7-12-3. EXCISE TAX ON CIGARETTES--REDUCTION OF RATE FOR
20 CERTAIN CIGARETTES.--

21 A. For the privilege of selling, giving or
22 consuming cigarettes in New Mexico, there is levied an excise
23 tax at a rate of [~~ten cents (\$.10)~~] fifteen cents (\$.15) for
24 each cigarette sold, given or consumed in this state.

25 B. The tax imposed by this section shall be

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1 referred to as the "cigarette tax".

2 C. The tax imposed by this section shall be reduced
3 by fifty percent for a cigarette for which a modified risk
4 tobacco product order has been issued by the United States
5 secretary of health and human services pursuant to Section 21
6 U.S.C. 387k(g)(1).

7 D. The tax imposed by this section shall be reduced
8 by twenty-five percent for a cigarette for which a modified
9 risk tobacco product order has been issued by the United States
10 secretary of health and human services pursuant to Section 21
11 U.S.C. 387k(g)(2)."

12 SECTION 5. Section 7-12-7 NMSA 1978 (being Laws 1971,
13 Chapter 77, Section 7, as amended) is amended to read:

14 "7-12-7. SALE OF STAMPS--PRICES.--

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

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

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

24 D. Tax stamps shall be sold at their face value
25 with the following discounts:

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

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

8 (3) [~~twenty-two~~] fifteen 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. Tax-credit stamps shall be provided only to
12 distributors and shall be provided free of charge; provided
13 that the distributor is in full compliance with the reporting
14 requirements of the Cigarette Tax Act and rules adopted
15 pursuant to that act.

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

19 G. Payment for tax stamps shall be made on or
20 before the twenty-fifth day of the month following the month in
21 which the sale of stamps by the department is made.

22 H. Tax-exempt stamps shall be provided only to
23 distributors and shall be free of charge; provided that the
24 distributor is in full compliance with the reporting
25 requirements of the Cigarette Tax Act and rules adopted

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1 pursuant to that act."

2 SECTION 6. Section 7-12A-2 NMSA 1978 (being Laws 1986,
3 Chapter 112, Section 3, as amended) is amended to read:

4 "7-12A-2. DEFINITIONS.--As used in the Tobacco Products
5 Tax Act:

6 A. "department" means the taxation and revenue
7 department, the secretary or any employee of the department
8 exercising authority lawfully delegated to that employee by the
9 secretary;

10 B. "cigar" means a roll for smoking made wholly or
11 in part of tobacco and weighing greater than four and one-half
12 pounds per thousand;

13 C. "distribute" means to sell or to give;

14 D. "closed system cartridge" means a single-use,
15 pre-filled disposable cartridge containing five milliliters or
16 less of e-liquid for use in an e-cigarette;

17 E. "e-cigarette" means ~~[any electronic oral device,~~
18 ~~whether composed of a heating element and battery or an~~
19 ~~electronic circuit, that provides a vapor of nicotine or any~~
20 ~~other substance the use or inhalation of which simulates~~
21 ~~smoking and includes any such device, or any part thereof,~~
22 ~~whether manufactured, distributed, marketed or sold as an~~
23 ~~e-cigarette, e-cigar, e-pipe or any other product, name or~~
24 ~~descriptor. "E-cigarette" does not include any product~~
25 ~~regulated as a drug or device by the United States food and~~

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1 ~~drug administration under the Federal Food, Drug, and Cosmetic~~
2 ~~Act]~~ a device that can be used to deliver aerosolized or
3 vaporized nicotine to the person inhaling from the device and
4 includes any component, part or accessory of such a device that
5 is used during the operation of the device but does not include
6 a battery or battery charger;

7 F. "e-liquid" means liquid or other substance
8 intended for use in an e-cigarette [~~not including any substance~~
9 ~~containing cannabis or oil derived from cannabis~~];

10 G. "engaging in business" means carrying on or
11 causing to be carried on any activity with the purpose of
12 direct or indirect benefit;

13 H. "first purchaser" means a person engaging in
14 business in New Mexico that manufactures tobacco products or
15 that purchases or receives on consignment tobacco products from
16 any person outside of New Mexico, which tobacco products are to
17 be distributed in New Mexico in the ordinary course of
18 business;

19 I. "little cigar" means a roll for smoking made
20 wholly or in part of tobacco, using an integrated cellulose
21 acetate or other similar filter, and weighing not more than
22 four and one-half pounds per thousand;

23 J. "person" means any individual, estate, trust,
24 receiver, cooperative association, club, corporation, company,
25 firm, partnership, joint venture, syndicate, limited liability

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1 company, limited liability partnership, other association or
2 gas, water or electric utility owned or operated by a county or
3 municipality or other entity of the state; "person" also means,
4 to the extent permitted by law, a federal, state or other
5 governmental unit or subdivision or an agency, department or
6 instrumentality;

7 ~~[K. "product value" means the amount paid, net of~~
8 ~~any discounts taken and allowed, for tobacco products or, in~~
9 ~~the case of tobacco products received on consignment, the value~~
10 ~~of the tobacco products received or, in the case of tobacco~~
11 ~~products manufactured and sold in New Mexico, the proceeds from~~
12 ~~the sale by the manufacturer of the tobacco products; and~~

13 ~~L.]~~ K. "tobacco product":

14 (1) means:

15 ~~[(1) any]~~ (a) a product, other than
16 cigarettes, ~~[eigars and little eigars]~~ made from or containing
17 tobacco or nicotine, whether natural or synthetic, that is
18 intended for human consumption or is likely to be consumed,
19 whether smoked, heated, chewed, absorbed, dissolved or inhaled;

20 ~~[(2)]~~ (b) e-liquid;

21 ~~[(3)]~~ (c) e-cigarettes; and

22 ~~[(4)]~~ (d) closed system cartridges; and

23 (2) does not mean a product regulated as a
24 drug or device by the United States food and drug
25 administration pursuant to the Federal Food, Drug, and Cosmetic

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1 Act; and

2 L. "wholesale price" means the amount paid, net of
3 any discounts taken and allowed, for tobacco products or, in
4 the case of tobacco products received on consignment, the value
5 of the tobacco products received or, in the case of tobacco
6 products manufactured and sold in New Mexico, the proceeds from
7 the sale by the manufacturer of the tobacco products."

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

10 "7-12A-3. IMPOSITION AND RATES OF TAX--REDUCTION OF RATE
11 FOR CERTAIN TOBACCO PRODUCTS--DENOMINATION AS "TOBACCO PRODUCTS
12 TAX"--DATE PAYMENT OF TAX DUE.--

13 A. For the manufacture or acquisition of tobacco
14 products in New Mexico [~~not including cigars, little cigars, e-~~
15 ~~liquid, e-cigarettes or closed system cartridges]~~ to be
16 distributed in the ordinary course of business and for the
17 consumption of tobacco products in New Mexico, there is imposed
18 an excise tax at the rate of [~~twenty-five~~] sixty-seven and
19 one-half percent of the [~~product value~~] wholesale price of the
20 tobacco products; provided that for the following tobacco
21 products, the rate shall be:

22 (1) for cigars, thirty-seven and one-half
23 percent, not to exceed one dollar fifty cents (\$1.50) per
24 cigar; and

25 (2) for little cigars, the rate equal to the

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1 rate imposed on cigarettes pursuant to Section 7-12-3 NMSA
2 1978.

3 ~~[B. For the manufacture or acquisition of cigars in~~
4 ~~New Mexico to be distributed in the ordinary course of business~~
5 ~~and for the consumption of cigars in New Mexico, there is~~
6 ~~imposed an excise tax at a rate equal to twenty-five percent of~~
7 ~~the product value of the cigar, not to exceed fifty cents~~
8 ~~(\$.50) per cigar.~~

9 ~~C. For the manufacture or acquisition of little~~
10 ~~cigars in New Mexico to be distributed in the ordinary course~~
11 ~~of business and for the consumption of little cigars in New~~
12 ~~Mexico, there is imposed an excise tax at a rate equal to the~~
13 ~~rate imposed on cigarettes pursuant to Section 7-12-3 NMSA 1978~~
14 ~~per package of little cigars.~~

15 ~~D. For the manufacture or acquisition of e-liquid~~
16 ~~in New Mexico to be distributed in the ordinary course of~~
17 ~~business and for the consumption of e-liquid in New Mexico,~~
18 ~~there is imposed an excise tax at a rate equal to twelve and~~
19 ~~one-half percent of the product value of the e-liquid.~~

20 ~~E. For the manufacture or acquisition of closed~~
21 ~~system cartridges in New Mexico to be distributed in the~~
22 ~~ordinary course of business, there is imposed an excise tax at~~
23 ~~a rate of fifty cents (\$.50) per closed system cartridge.~~

24 ~~H.]~~ B. The taxes imposed by this section may be
25 referred to as the "tobacco products tax".

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

4 **SECTION 8.** Section 7-12A-4 NMSA 1978 (being Laws 1986,
5 Chapter 112, Section 5, as amended) is amended to read:

6 "7-12A-4. EXEMPTION--TOBACCO PRODUCTS TAX.--

7 A. Exempted from the tobacco products tax is the
8 [~~product value~~] wholesale price of tobacco products sold:

9 (1) to or by the United States or any agency
10 or instrumentality thereof;

11 (2) to the governing body or any enrolled
12 tribal member licensed by the governing body of an Indian
13 nation, tribe or pueblo to be distributed on the reservation or
14 pueblo grant of that Indian nation, tribe or pueblo; or

15 (3) to the state of New Mexico or any
16 political subdivision thereof.

17 B. As used in this section, the term "agency or
18 instrumentality" does not include persons who are agents or
19 instrumentalities of the United States for a particular purpose
20 or only when acting in a particular capacity or corporate
21 agencies or instrumentalities."

22 **SECTION 9.** Section 7-12A-5 NMSA 1978 (being Laws 1986,
23 Chapter 112, Section 6) is amended to read:

24 "7-12A-5. DEDUCTION--INTERSTATE SALES.--The [~~product~~
25 ~~value~~] wholesale price of tobacco products sold and shipped or

1 given and shipped to a person in another state may be deducted
2 from the [~~product value~~] wholesale price subject to the tax
3 imposed by the Tobacco Products Tax Act; provided that the
4 department may require the person to submit proof satisfactory
5 to the department that the tobacco products have been sold and
6 shipped or given and shipped to a person in another state."

7 **SECTION 10. APPROPRIATION.**--Five hundred thousand dollars
8 (\$500,000) is appropriated from the general fund to the
9 regulation and licensing department for expenditure in fiscal
10 year 2026 to expand the department's licensure and enforcement
11 duties in regard to nicotine sales and use. Any unexpended or
12 unencumbered balance remaining at the end of fiscal year 2026
13 shall revert to the general fund.

14 **SECTION 11. EFFECTIVE DATE.**--The effective date of the
15 provisions of this act is July 1, 2025.

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