

SB 409-FN - AS INTRODUCED

2018 SESSION

18-2836

03/10

SENATE BILL        ***409-FN***

AN ACT            relative to the taxation of moist snuff tobacco products.

SPONSORS:        Sen. Giuda, Dist 2; Rep. J. Graham, Hills. 7; Rep. D. Sullivan, Hills. 8

COMMITTEE:      Ways and Means

---

ANALYSIS

This bill establishes a tax for moist snuff as a tobacco product.

-----

Explanation:      Matter added to current law appears in ***bold italics***.  
                         Matter removed from current law appears ~~[in brackets and struckthrough.]~~  
                         Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Eighteen*

AN ACT                    relative to the taxation of moist snuff tobacco products.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1            1 Tobacco Tax; Definitions. Amend RSA 78:1, XIV to read as follows:

2            XIV. "Tobacco products" means cigarettes, loose tobacco, smokeless tobacco, ***moist snuff***,  
3 and cigars, but shall not include premium cigars.

4            2 New Paragraph; Tobacco Tax; Definitions; Moist Snuff. Amend RSA 78:1 by inserting after  
5 paragraph XXIV the following new paragraph:

6            XXV. "Moist snuff" means any finely cut, ground, or powdered tobacco that is not intended  
7 to be smoked, but shall not include any finely cut, ground, or powdered tobacco that is intended to  
8 be placed in the nasal cavity.

9            3 Tax Imposed on Tobacco Products Other Than Cigarettes. Amend RSA 78:7-c to read as  
10 follows:

11            78:7-c Tax Imposed on Tobacco Products Other Than Cigarettes ***and Moist Snuff***. A tax upon  
12 the retail consumer is hereby imposed on tobacco products other than cigarettes ***and moist snuff***  
13 at a rate of 65.03 percent of the wholesale sales price. The tax under this section may be rounded to  
14 the nearest cent if the commissioner determines that the amount of tax would not thereby be made  
15 materially disproportionate. No such tax is imposed on any transactions, the taxation of which by  
16 this state is prohibited by the Constitution of the United States. No such tax shall be imposed on  
17 premium cigars.

18            4 Consumer Reporting and Payment. Amend RSA 78:7-d, I to read as follows:

19            I. A consumer who purchases, imports, receives, or otherwise acquires tobacco products  
20 from other than a licensed retailer or licensed vending machine operator and without  
21 documentation to evidence tax paid under this chapter shall file, on or before the last day of the  
22 month following each month in which such tobacco products were acquired, a return on a form  
23 prescribed by the commissioner together with payment of the tax imposed by this chapter at the  
24 rate provided in RSA 78:7, [and] RSA 78:7-c, ***and RSA 78:7-e***. The return shall report the number  
25 of tobacco products purchased, imported, received, or otherwise acquired during the previous  
26 calendar month and any additional information the commissioner may require.

27            5 New Section; Tobacco Tax; Tax Imposed on Moist Snuff. Amend RSA 78 by inserting after  
28 section 7-d the following new section:

29            78:7-e Tax Imposed on Moist Snuff. A tax upon the retail consumer is hereby imposed on moist  
30 snuff at the rate of \$1.68 per ounce and a proportionate tax for any other quantity or fractional part  
31 thereof. The tax under this section may be rounded to the nearest cent if the commissioner

**SB 409-FN - AS INTRODUCED**

**- Page 2 -**

1 determines that the amount of tax would not thereby be made materially disproportionate. No such  
2 tax is imposed on any transactions, the taxation of which by this state is prohibited by the  
3 Constitution of the United States.

4       6 Effective Date. This act shall take effect July 1, 2018.

**SB 409-FN- FISCAL NOTE  
AS INTRODUCED**

AN ACT relative to the taxation of moist snuff tobacco products.

**FISCAL IMPACT:**    ☒ **State**                    ☐ **County**                    ☐ **Local**                    ☐ **None**

STATE:	Estimated Increase / (Decrease)			
	FY 2019	FY 2020	FY 2021	FY 2022
<b>Appropriation</b>	\$0	\$0	\$0	\$0
<b>Revenue</b>	Indeterminable	Indeterminable	Indeterminable	Indeterminable
<b>Expenditures</b>	\$0	\$0	\$0	\$0
<b>Funding Source:</b>	<input checked="" type="checkbox"/> General	<input checked="" type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

**METHODOLOGY:**

This bill adds a definition of moist snuff and proposes to tax it at \$1.68 per ounce and a proportionate tax for any other quantity or fractional part thereof. Under current law, moist snuff is taxed as other tobacco product at a rate of 65.03% of the wholesale sales price. The Department of Revenue Administration is unable to determine the fiscal impact to the State General Fund and Education Trust Fund of taxing moist snuff by weight because the Department does not have complete data on existing sales volumes by weight of moist snuff in the State. Wholesalers who sell smokeless tobacco in the State are required to file a monthly return that requires the wholesaler to report their sales, in dollars, of smokeless tobacco products sold or distributed in the State. The filings from wholesalers do not breakdown the type of smokeless tobacco, which includes moist snuff. The Department does know that in fiscal year 2017, there was \$13,921,193 in smokeless tobacco sales in the State, which includes moist snuff and all other forms of smokeless tobacco, that resulted in \$9,052,952 in tobacco tax paid.

The Department states it would need to update all necessary tax return forms and electronic management systems related to taxing moist snuff by weight. The Department is able to administer this bill within its operating budget.

**AGENCIES CONTACTED:**

Department of Revenue Administration