

HB 659-FN-A – AS AMENDED BY THE HOUSE

20Mar2013... 0705h

2013 SESSION

13-0571

09/05

HOUSE BILL

659-FN-A

AN ACT

increasing the tobacco tax.

SPONSORS:

Rep. Rosenwald, Hills 30; Rep. G. Richardson, Merr 10; Rep. Harding, Graf 13;
Rep. Hammond, Hills 24; Rep. Emerson, Ches 11

COMMITTEE:

Ways and Means

ANALYSIS

This bill increases the tobacco tax.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 Thirteen

AN ACT increasing the tobacco tax.

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

1 1 Tobacco Tax Rate Increased. Amend RSA 78:7 to read as follows:

2 78:7 Tax Imposed. A tax upon the retail consumer is hereby imposed at the rate of [~~\$1.68~~] **\$1.88**
3 for each package containing 20 cigarettes or at a rate proportional to such rate for packages
4 containing more or less than 20 cigarettes, on all cigarettes sold at retail in this state. The payment
5 of the tax shall be evidenced by affixing stamps to the smallest packages containing the cigarettes in
6 which such products usually are sold at retail. The word “package” as used in this section shall not
7 include individual cigarettes. No tax is imposed on any transactions, the taxation of which by this
8 state is prohibited by the Constitution of the United States.

9 2 Tobacco Products Other Than Cigarettes; Tax Rate Increased. Amend RSA 78:7-c to read as
10 follows:

11 78:7-c Tax Imposed on Tobacco Products Other Than Cigarettes. A tax upon the retail consumer
12 is hereby imposed on tobacco products other than cigarettes at a rate of [~~48~~] **53.7** percent of the
13 wholesale sales price. The tax under this section may be rounded to the nearest cent if the
14 commissioner determines that the amount of tax would not thereby be made materially
15 disproportionate. No such tax is imposed on any transactions, the taxation of which by this state is
16 prohibited by the Constitution of the United States. No such tax shall be imposed on premium
17 cigars.

18 3 Applicability. Sections 1 and 2 of this act shall apply to all persons licensed under RSA 78:2.
19 Such persons shall inventory all cigarettes and taxable tobacco products other than cigarettes in
20 their possession and file a report of such inventory with the department of revenue administration
21 on a form prescribed by the commissioner within 20 days after the effective date of this act. One-half
22 of the tax rate effective July 1, 2013 shall apply to such inventory and the difference, if any, in the
23 amount paid previously on such inventory and 1/2 of the current effective rate of tax shall be paid
24 within 60 days of the effective date of this act. The inventory form shall be treated as a tax return
25 for the purpose of computing penalties under RSA 21-J.

26 4 Repeal. 2011, 224:379 through 224:381, relative to contingent tax rate increases of the tobacco
27 tax on cigarettes and other tobacco products based on reporting of tobacco tax revenues, are
28 repealed.

29 5 Effective Date. This act shall take effect July 1, 2013.

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LBAO
13-0571
Revised 04/03/13
Amended 03/20/13

HB 659 FISCAL NOTE

AN ACT increasing the tobacco tax.

FISCAL IMPACT:

The Department of Revenue Administration states this bill, as amended by the House (Amendment #2013-0705h), will increase state revenues by an indeterminable amount in FY 2014 and each fiscal year thereafter. There will be no fiscal impact on county and local revenues, or state, county, and local expenditures.

METHODOLOGY:

The Department of Revenue Administration states this bill increases the rate of the tobacco tax for each package containing 20 cigarettes to \$1.88 and specifies the tobacco tax on tobacco products other than cigarettes shall be set at 53.7% of the wholesale sales price. The Department notes current law dictates tobacco tax rates will increase as of August 1, 2013 for both cigarettes (from \$1.68 per package of 20 to \$1.78) and other tobacco products (from 48% of the wholesale price to 65.03%) if contingencies set in the laws of 2011 Chapter 224:381 are not met.

Based on estimated tax stamp sales for FY 2013 of 121,828,800 and absent any subsequent decrease in demand associated with an increase in price, the Department estimates the increase in the per package tax rate from \$1.68 to \$1.88 per package would result in the following increase in state education trust fund revenues:

	Estimated FY 2013 Tax		
	Base	Tax Rate	Anticipated Revenue
Current Rate	121,828,800	\$ 1.68	\$ 204,672,384
Contingent Rate	121,828,800	\$ 1.78	\$ 216,855,264
Proposed Rate	121,828,800	\$ 1.88	\$ 229,038,144
Difference (Proposed Rate to Current Rate)			\$ 24,365,760
Difference (Proposed Rate to Contingent Rate)			\$ 12,182,880

However, the Department notes the increase in the retail price of a package of cigarettes resulting from the proposed legislation could potentially decrease the demand for cigarettes and therefore, reduce the anticipated increase to state education trust fund revenues. Based on an average price elasticity of demand of -45%, the Department estimates the rate increase of 11.9%

(\$0.20/\$1.68) would result in a 5.4% decrease in demand (11.9% x -45%) while the contingent rate increase of 5.6% (\$0.10/\$1.78) would result in a 2.5% decrease in demand (5.6% x -45%). When this decrease in demand is factored into the Department's estimated increase in revenues, the Department's estimates are reduced as follows:

	Estimated FY 2013 Tax Base	Reduction in Demand	Revised Tax Base	Tax Rate	Anticipated Revenue
Current Rate	121,828,800	N/A	121,828,800	\$1.68	\$ 204,672,384
Contingent Rate	121,828,800	2.5%	118,783,080	\$1.78	\$ 211,433,882
Proposed Rate	121,828,800	5.4%	115,250,045	\$1.88	\$ 216,670,084
Difference (Proposed Rate to Current Rate)					\$ 11,997,700
Difference (Proposed Rate to Contingent Rate)					\$ 6,761,498

This bill also specifies the tobacco tax on tobacco products other than cigarettes shall be increased from the current rate of 48% to 53.7%. Based on FY 2012 revenue of \$7,200,000, the Department estimates this provision of the proposed legislation will impact state general fund revenues as follows:

FY 2012 Revenue	\$ 7,200,000
Current Rate	48.00%
Estimated Tax Base (\$7.2M / 48%)	\$ 15,000,000
Contingent Rate	65.03%
Estimated Revenue – Contingent Rate	\$ 9,754,500
Proposed Rate	53.70%
Estimated Revenue - Proposed Rate	\$ 8,055,000
Estimated Increase in State Revenues (Proposed Rate to Current Rate)	\$ 855,000
Estimated Reduction in State Revenues (Proposed Rate to Contingent Rate)	\$ (1,699,500)

The Department assumes this bill will also require licensees to inventory tobacco products on hand as of the effective date of this legislation and apply 50% of the proposed tax rate increase to the inventory on hand. The Department estimates this provision of the bill will increase state revenues by approximately \$1,000,000 in FY 2014.