

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 278

BY REVENUE AND TAXATION COMMITTEE

AN ACT

1 RELATING TO ELECTRONIC CIGARETTES; AMENDING SECTION 63-2551, IDAHO CODE, TO
2 REVISE A DEFINITION AND TO MAKE A TECHNICAL CORRECTION; AMENDING CHAP-
3 TER 36, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3642,
4 IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING A TAX ON ELECTRONIC CIGA-
5 RETTES; AMENDING SECTION 67-1806, IDAHO CODE, TO REVISE PROVISIONS RE-
6 GARDING THE IDAHO MILLENNIUM INCOME FUND; AND AMENDING SECTION 67-1808,
7 IDAHO CODE, TO RESERVE ELECTRONIC CIGARETTE TAX PROCEEDS FOR PROGRAMS
8 THAT PROVIDE EDUCATION REGARDING ELECTRONIC CIGARETTES.
9

10 Be It Enacted by the Legislature of the State of Idaho:

11 SECTION 1. That Section 63-2551, Idaho Code, be, and the same is hereby
12 amended to read as follows:

13 63-2551. TOBACCO PRODUCTS TAX -- DEFINITIONS. As used in this act:

14 (1) "Tobacco products" shall mean any cigars, cheroots, stogies,
15 smoking tobacco (including granulated, plug, cut, crimp cut, ready rubbed
16 and any other kinds and forms of tobacco suitable for smoking in a pipe or
17 cigarette), chewing tobacco (including cavendish, twist, plug, scrap and
18 any other kinds and forms of tobacco suitable for chewing) and snuff, however
19 prepared; and shall include any other articles or products made of tobacco
20 except cigarettes. The term "tobacco products" does not include electronic
21 cigarettes;

22 (2) "Manufacturer" means a person who manufactures and sells tobacco
23 products;

24 (3) "Distributor" means (a) any person engaged in the business of sell-
25 ing tobacco products in this state who brings, or causes to be brought, into
26 this state from without the state any tobacco products for sale, (b) any per-
27 son who makes, manufactures, or fabricates tobacco products in this state
28 for sale in this state, (c) any person engaged in the business of selling to-
29 bacco products without this state who ships or transports tobacco products
30 to retailers in this state, to be sold by those retailers;

31 (4) "Subjobber" means any person, other than a manufacturer or distrib-
32 utor, who buys tobacco products from a distributor and sells them to persons
33 other than the ultimate consumers;

34 (5) "Retailer" means any person engaged in the business of selling to-
35 bacco products to ultimate consumers;

36 (6) "Sale" means any transfer, exchange, or barter, in any manner or by
37 any means whatsoever, for a consideration, and includes and means all sales
38 made by any person. It includes a gift by a person engaged in the business of
39 selling tobacco products, for advertising, as a means of evading the provi-
40 sions of this chapter, or for any other purposes whatsoever;

41 (7) "Wholesale sales price" means the established price for which a
42 manufacturer or any person sells a tobacco product to a distributor that is

1 not a related person as defined in section 267 of the Internal Revenue Code,
2 exclusive of any discount or other reduction;

3 (8) "Business" means any trade, occupation, activity, or enterprise
4 engaged in for the purpose of selling or distributing tobacco products in
5 this state;

6 (9) "Place of business" means any place where tobacco products are man-
7 ufactured, stored, or kept for the purpose of sale or consumption, including
8 any vessel, vehicle, airplane or train;

9 (10) "Retail outlet" means each place of business from which tobacco
10 products are sold to consumers; and

11 (11) "Commission" means the Idaho state tax commission.

12 SECTION 2. That Chapter 36, Title 63, Idaho Code, be, and the same is
13 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
14 ignated as Section 63-3642, Idaho Code, and to read as follows:

15 63-3642. ELECTRONIC CIGARETTE TAX. (1) On and after July 1, 2019, in
16 addition to the sales tax imposed by section 63-3619, Idaho Code, there is
17 hereby levied and there shall be collected a tax upon each sale at retail of
18 electronic cigarettes in this state at the rate of fifteen percent (15%) of
19 the sales price of the electronic cigarette. Such tax shall be collected by
20 the retailer from the consumer and remitted to the state in the same manner as
21 the sales tax.

22 (2) Proceeds from the tax prescribed by this section shall be deposited
23 in the Idaho millennium income fund as established by section 67-1806, Idaho
24 Code.

25 (3) For purposes of this section, "electronic cigarette" means a device
26 that can provide an inhaled dose of nicotine by delivering a vaporized solu-
27 tion or any product sold for use in such device.

28 SECTION 3. That Section 67-1806, Idaho Code, be, and the same is hereby
29 amended to read as follows:

30 67-1806. IDAHO MILLENNIUM INCOME FUND. There is hereby created in the
31 state treasury the "Idaho Millennium Income Fund." The fund shall consist of
32 distributions from the Idaho millennium permanent endowment fund, the Idaho
33 millennium fund, proceeds from the electronic cigarette tax established by
34 section 63-3642, Idaho Code, and such moneys that may be provided by legisla-
35 tive appropriations. The Idaho millennium income fund shall be managed by
36 the state treasurer and shall retain its own earnings. The uses of this fund
37 shall be determined by legislative appropriation.

38 SECTION 4. That Section 67-1808, Idaho Code, be, and the same is hereby
39 amended to read as follows:

40 67-1808. POWERS AND DUTIES OF THE COMMITTEE. (1) The committee shall
41 have the following powers and duties:

42 (1a) To meet not less than two (2) times each year;

43 (2b) To establish rules for governance and operation of committee pro-
44 ceedings;

- 1 (~~3~~c) To request applications for funding from the Idaho millennium in-
2 come fund;
- 3 (~~4~~d) To meet to hear testimony and to consider applications for funding
4 from the Idaho millennium income fund;
- 5 (~~5~~e) To evaluate the actual and potential success of programs funded
6 with moneys from the Idaho millennium income fund; and
- 7 (~~6~~f) To present recommendations annually to the legislature for the use
8 of the moneys in the Idaho millennium income fund.
- 9 (2) Moneys deposited in the Idaho millennium income fund pursuant to
10 section 63-3642, Idaho Code, shall be reserved for programs that educate the
11 public regarding electronic cigarettes.