

1 **CIGARETTE AND TOBACCO TAX**
2 **AMENDMENTS**

3 2010 GENERAL SESSION
4 STATE OF UTAH

5 **Chief Sponsor: Allen M. Christensen**

6 House Sponsor: _____
7

8 **LONG TITLE**

9 **General Description:**

10 This bill addresses the taxes on cigarettes and tobacco products.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ increases the tax on cigarettes, moist snuff, and other tobacco products;
- 14 ▶ addresses the deposit of revenues collected from the taxes;
- 15 ▶ deposits income from the permanent state trust fund into the General Fund; and
- 16 ▶ makes technical and conforming changes.

17 **Monies Appropriated in this Bill:**

18 None

19 **Other Special Clauses:**

20 This bill takes effect on July 1, 2010.

21 **Utah Code Sections Affected:**

22 AMENDS:

23 **59-14-204**, as last amended by Laws of Utah 2008, Chapter 382

24 **59-14-206**, as last amended by Laws of Utah 1997, Chapter 330

25 **59-14-302**, as last amended by Laws of Utah 2008, Chapter 204

26 ENACTS:

27 **59-14-701**, Utah Code Annotated 1953



28 59-14-702, Utah Code Annotated 1953

29 59-14-703, Utah Code Annotated 1953



31 *Be it enacted by the Legislature of the state of Utah:*

32 Section 1. Section 59-14-204 is amended to read:

33 **59-14-204. Tax basis -- Rate -- Future increase -- Restricted account -- Use of**
34 **revenues.**

35 (1) Except for cigarettes described under Subsection 59-14-210(3), there is levied a tax
36 upon the sale, use, storage, or distribution of cigarettes in the state.

37 (2) The rates of the tax levied under Subsection (1) are:

38 (a) [~~3.475~~] 10 cents on each cigarette, for all cigarettes weighing not more than three
39 pounds per thousand cigarettes; and

40 (b) [~~4.075~~] 11.725 cents on each cigarette, for all cigarettes weighing in excess of three
41 pounds per thousand cigarettes.

42 (3) Except as otherwise provided under this chapter, the tax levied under Subsection
43 (1) shall be paid by any person who is the manufacturer, jobber, importer, distributor,
44 wholesaler, retailer, user, or consumer.

45 (4) The tax rates specified in this section shall be increased by the commission by the
46 same amount as any future reduction in the federal excise tax on cigarettes.

47 (5) (a) There is created within the General Fund a restricted account known as the
48 "Cigarette Tax Restricted Account."

49 (b) Beginning on July 1, 1998, \$250,000 of the revenues generated by the increase in
50 the cigarette tax under this section enacted during the 1997 Annual General Session shall be
51 annually deposited into the account.

52 (c) The Department of Health shall expend the funds deposited in the account under
53 Subsection (5)(b) for a tobacco prevention and control media campaign targeted towards
54 children.

55 (d) The following revenue generated from the tax increase imposed under Subsection
56 (1) during the 2002 General Session shall be deposited in the Cigarette Tax Restricted
57 Account:

58 (i) 22% of the revenue to be annually appropriated to the Department of Health for

59 tobacco prevention, reduction, cessation, and control programs;

60 (ii) 15% of the revenue to be annually appropriated to the University of Utah Health
61 Sciences Center for the Huntsman Cancer Institute for cancer research; and

62 (iii) 21% of the revenue to be annually appropriated to the University of Utah Health
63 Sciences Center for medical education at the University of Utah School of Medicine.

64 (e) Any balance remaining in the Cigarette Tax Restricted Account at the end of the
65 fiscal year shall be appropriated during the next fiscal year for the purposes set forth in
66 Subsections (5)(d)(i) through (5)(d)(iii) in proportion to the amount of revenue deposited into
67 the account for each purpose.

68 (f) The Legislature shall give particular consideration to appropriating any revenues
69 resulting from the change in tax rates under Subsection (2) adopted during the 2002 Annual
70 General Session and not otherwise appropriated pursuant to Subsection (5)(d) to enhance
71 Medicaid provider reimbursement rates and medical coverage for the uninsured.

72 (g) Any program or entity that receives funding under Subsection (5)(d) shall provide
73 an annual report to the Health and Human Services Interim Committee no later than September
74 1 of each year. The report shall include:

75 (i) the amount funded;

76 (ii) the amount expended;

77 (iii) a description of the effectiveness of the program; and

78 (iv) if the program is a tobacco cessation program, the report required in Section
79 51-9-203.

80 Section 2. Section **59-14-206** is amended to read:

81 **59-14-206. Sales of stamps -- Deposit of revenues -- Redemption of unused stamps**
82 **-- Discount on lump purchases of stamps -- Unlawful acts.**

83 (1) The commission may prepare stamps for use on packages and containers of
84 cigarettes according to its specifications, designs, and denominations and shall keep an
85 accurate record of all stamps for which the commission is responsible. The cost of the stamps
86 shall be charged to any appropriation made to defray the costs of administering this chapter.

87 (2) (a) The commission shall sell stamps only to persons holding licenses issued as
88 provided in this chapter.

89 [~~(a) The money received from the sale of the stamps, and all other money received~~

90 from penalties, fees, and taxes provided by this chapter shall be deposited in the General Fund.]

91 (b) The commission may deliver stamps in face value not to exceed 90% of the penal
92 sum of the licensee's bond to any licensee without payment. The licensee shall pay for stamps
93 within 60 days of the date the stamps were delivered on credit to the licensee.

94 (c) Unused stamps may be redeemed within three years of their purchase by
95 presentation to the commission of a claim by the person to whom they were originally sold.
96 The redemption claim shall be accompanied by the unused stamps.

97 (d) The commission shall certify a redemption claim with its approval to the state
98 auditor, who shall draw a warrant upon the state treasurer for the payment of the claim.

99 (3) The commission shall allow a discount of 4% upon the entire amount to each
100 licensee for each single purchase of stamps amounting to \$25 or more.

101 (4) It is unlawful for any person to sell or dispose of stamps to any other person.
102 However, stamps may be distributed to the various places of sale by the main office whenever a
103 person owns or operates more than one place of sale. Each place of sale shall have a separate
104 license and cancellation stamp.

105 Section 3. Section **59-14-302** is amended to read:

106 **59-14-302. Tax basis -- Rates.**

107 (1) As used in this section:

108 (a) "Manufacturer's sales price" means the amount the manufacturer of a tobacco
109 product charges after subtracting a discount.

110 (b) "Manufacturer's sales price" includes an original Utah destination freight charge,
111 regardless of:

- 112 (i) whether the tobacco product is shipped f.o.b. origin or f.o.b. destination; or
- 113 (ii) who pays the original Utah destination freight charge.

114 (2) There is levied a tax upon the sale, use, or storage of tobacco products in the state.

115 (3) The tax levied under Subsection (2) shall be paid by the manufacturer, jobber,
116 distributor, wholesaler, retailer, user, or consumer.

117 (4) The rate of the tax under this section is:

118 (a) for tobacco products except for moist snuff, [~~35%~~] 88% of the manufacturer's sales
119 price; or

120 (b) subject to Subsection (5), for moist snuff, [~~\$.75~~] \$2.15 per ounce.

121 (5) (a) The tax under this section on moist snuff shall be imposed on the basis of the
122 net weight of the moist snuff as listed by the manufacturer.

123 (b) If the net weight of moist snuff is in a quantity that is a fractional part of one ounce,
124 a proportionate amount of the tax described in Subsection (4)(b) is imposed:

125 (i) on that fractional part of one ounce; and

126 (ii) in accordance with rules made by the commission in accordance with Title 63G,
127 Chapter 3, Utah Administrative Rulemaking Act.

128 Section 4. Section **59-14-701** is enacted to read:

129 **Part 7. Disposition of Cigarette and Tobacco Products Tax Revenues**

130 **59-14-701. Disposition of Cigarette and Tobacco Products Tax Revenues Act.**

131 This part is known as the "Disposition of Cigarette and Tobacco Products Tax
132 Revenues Act."

133 Section 5. Section **59-14-702** is enacted to read:

134 **59-14-702. Disposition of revenues.**

135 Except as provided in this chapter, revenues collected under this chapter and amounts
136 received as a penalty, interest, or a fee under this chapter shall be deposited into the General
137 Fund.

138 Section 6. Section **59-14-703** is enacted to read:

139 **59-14-703. Cigarette and tobacco products tax revenues -- Deposit to the**
140 **permanent state trust fund -- Income deposited into General Fund.**

141 (1) The Division of Finance, after making the deposits required by this chapter, shall
142 credit to the permanent state trust fund created and operated under Utah Constitution Article
143 XXII, Section 4, revenue collected in a fiscal year from the taxes imposed under Sections
144 59-14-204 and 59-14-302 that exceeds:

145 (a) \$50,064,000 in fiscal year 2010-11; and

146 (b) \$51,055,300 for a fiscal year beginning on or after July 1, 2011.

147 (2) In accordance with Utah Constitution Article XXII, Section 4, income from the
148 revenues deposited into the permanent state trust fund in accordance with this section shall be
149 deposited into the General Fund.

150 Section 7. **Effective date.**

151 This bill takes effect on July 1, 2010.

Legislative Review Note
as of 1-11-10 10:06 AM

Office of Legislative Research and General Counsel

S.B. 40 - Cigarette and Tobacco Tax Amendments

Fiscal Note

2010 General Session
State of Utah

State Impact

Enactment of this bill increases revenue to the Permanent State Trust Fund by \$40,300,000 in FY 2011 and \$53,800,000 in FY 2012.

	<u>FY 2010 Approp.</u>	<u>FY 2011 Approp.</u>	<u>FY 2012 Approp.</u>	<u>FY 2010 Revenue</u>	<u>FY 2011 Revenue</u>	<u>FY 2012 Revenue</u>
Restricted Funds	\$0	\$0	\$0	\$0	\$40,300,000	\$53,800,000
Total	\$0	\$0	\$0	\$0	\$40,300,000	\$53,800,000

Individual, Business and/or Local Impact

Business revenues will decrease by \$63,100,000 in FY 2011 and \$50,500,000 in FY 2012. Individual tobacco costs will increase \$40,300,000 in FY 2011 and \$53,800,000 in FY 2012. Local government revenues may increase.