
A BILL FOR AN ACT

RELATING TO TAXATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. The legislature finds that premium cigar sellers whose products are made for adult consumers, including cigars produced with Hawaii-grown tobacco, are unfairly burdened as a result of a percentage tax. As a result, cigar retailers are put at a competitive disadvantage when lower priced cigars can be purchased legally through mail order sales. The legislature further finds that few, if any, consumers file usage taxes for cigars purchased through mail order sale, creating a loss of revenue for the State.

The purpose of this Act is to ease the unfair burden on the local premium cigar industry, which has been at a competitive disadvantage as a result of a percentage tax, and to help the State of Hawaii collect more tax revenue as a result of in-state cigar sales.

SECTION 2. Section 245-1, Hawaii Revised Statutes, is amended as follows:

1. By adding a new definition to be appropriately inserted and to read:

""Premium cigar" means a cigar that is made entirely by hand of all natural tobacco leaf, hand-constructed and hand-wrapped, with no filter or characterizing flavor, and weighing more than four pounds per one thousand cigars."

2. By adding a new definition to be appropriately inserted to read:

""Characterizing flavor" means a distinguishable taste or aroma of candy, chocolate, vanilla, fruit, berry, nut, herb, spice, honey, or an alcoholic drink that is imparted to tobacco or tobacco smoke either prior to or during consumption and is deemed to have a characterizing flavor if the cigar is advertised or marketed as having or producing the taste or aroma of candy, chocolate, vanilla, fruit, berry, nut, herb, spice, honey, or an alcoholic drink. "Characterizing flavor" does not include a taste or aroma from tobacco."

3. By amending the definition of "tobacco products" to read:

""Tobacco products" means tobacco in any form, other than cigarettes or

little cigars, that is prepared or intended for consumption or for personal use by humans, including large cigars, premium cigars, and any substitutes thereof other than cigarettes that bear the semblance thereof, snuff, chewing or smokeless tobacco, and smoking or pipe tobacco."

SECTION 3. Section 245-3, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Every wholesaler or dealer, in addition to any other taxes provided by law, shall pay for the privilege of conducting business and other activities in the State:

(1) An excise tax equal to 5.00 cents for each cigarette sold, used, or possessed by a wholesaler or dealer after June 30, 1998, whether or not sold at wholesale, or if not sold then at the same rate upon the use by the wholesaler or dealer;

(2) An excise tax equal to 6.00 cents for each cigarette sold, used, or possessed by a wholesaler or dealer after September 30, 2002, whether or not sold at wholesale, or if not sold then at the same rate upon the use by the wholesaler or dealer;

(3) An excise tax equal to 6.50 cents for each cigarette sold, used, or possessed by a wholesaler or dealer after June 30, 2003, whether or not sold at wholesale, or if not sold then at the same rate upon the use by the wholesaler or dealer;

(4) An excise tax equal to 7.00 cents for each cigarette sold, used, or possessed by a wholesaler or dealer after June 30, 2004, whether or not sold at wholesale, or if not sold then at the same rate upon the use by the wholesaler or dealer;

(5) An excise tax equal to 8.00 cents for each cigarette sold, used, or possessed by a wholesaler or dealer on and after September 30, 2006, whether or not sold at wholesale, or if not sold then at the same rate upon the use by the wholesaler or dealer;

(6) An excise tax equal to 9.00 cents for each cigarette sold, used, or possessed by a wholesaler or dealer on and after September 30, 2007, whether or not sold at wholesale, or if not sold then at the same rate upon the use by the wholesaler or dealer;

(7) An excise tax equal to 10.00 cents for each cigarette sold, used, or possessed by a wholesaler or dealer on and after September 30, 2008, whether or not sold at wholesale, or if not sold then at the same rate upon the use by the wholesaler or dealer;

(8) An excise tax equal to 13.00 cents for each cigarette sold, used, or possessed by a wholesaler or dealer on and after July 1, 2009, whether or not sold at wholesale, or if not sold then at the same rate upon the use by the wholesaler or dealer;

(9) An excise tax equal to 11.00 cents for each little cigar sold, used, or possessed by a wholesaler or dealer on and after October 1, 2009, whether or not sold at wholesale, or if not sold then at the same rate upon the use by the wholesaler or dealer;

(10) An excise tax equal to 15.00 cents for each cigarette or little cigar sold, used, or possessed by a wholesaler or dealer on and after July 1, 2010, whether or not sold at wholesale, or if not sold then at the same rate upon the use by the wholesaler or dealer;

(11) An excise tax equal to 16.00 cents for each cigarette or little cigar sold, used, or possessed by a wholesaler or dealer on and after July 1, 2011, whether or not sold at wholesale, or if not sold then at the same rate upon the use by the wholesaler or dealer;

(12) An excise tax equal to seventy per cent of the wholesale price of each article or item of tobacco products, other than large cigars and premium cigars, sold by the wholesaler or dealer on and after September 30, 2009, whether or not sold at wholesale, or if not sold then at the same rate upon the use by the wholesaler or dealer; [~~and~~]

(13) An excise tax equal to fifty per cent of the wholesale price of each large cigar of any length, sold, used, or possessed by a wholesaler or dealer on and after September 30, 2009, whether or not sold at wholesale, or if not sold then at the same rate upon the use by the wholesaler or dealer; and

(14) An excise tax equal to 50.00 cents for each premium cigar of any length, sold, used, or possessed by a wholesaler or dealer on and after July 1, 2014, whether or not sold at wholesale, or if not sold then at the same rate upon the use by the wholesaler or dealer.

Where the tax imposed has been paid on cigarettes, little cigars, or tobacco products that thereafter become the subject of a casualty loss deduction allowable under chapter 235, the tax paid shall be refunded or credited to the account of the wholesaler or dealer. The tax shall be applied to cigarettes through the use of stamps."

Section 4. Section 245-15 Disposition of revenues. All moneys collected pursuant to this chapter shall be paid into the state treasury as state realizations to be kept and accounted for as provided by law; provided that, of the moneys collected under the tax imposed pursuant to:

(6) Section 245-3(a)(13), after December 31, 2014, and thereafter, all amounts collected on the premium cigar tax shall be deposited to the credit of the Hawaii cancer research special fund, established pursuant to section 304A-2168, for research and operating expenses and capital expenditures.

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval and shall apply to the sale of tobacco products occurring after July 1, 2014.

Report Title:

Health; Cigars; Tax

Description:

Adds a new definition of premium cigar. Applies a flat rate tax of 50 cents per premium cigar. Effective 7/1/2014. (SD1 Proposed)

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