

# DEPARTMENT OF TAXATION

## 2009 Fiscal Impact Statement

1. **Patron** Robert H. Brink

2. **Bill Number** HB 2389

3. **Committee** House Finance

**House of Origin:**

  X   **Introduced**

      **Substitute**

      **Engrossed**

4. **Title** Cigarette and Tobacco Products Taxes;  
Cigarette Tax Rate Increase, Weight Based  
Taxation of Moist Snuff, and Repeal of the  
Dealer Discounts

**Second House:**

      **In Committee**

      **Substitute**

      **Enrolled**

### 5. **Summary/Purpose:**

This bill would increase the Cigarette Tax from 30 cents per pack to 60 cents per pack of 20 cigarettes and would eliminate the discount provided as compensation to stamping agents on their purchases of Virginia revenue stamps. The bill would also impose the Tobacco Products Tax on moist snuff at the rate of \$0.25 per ounce based on net weight. Moist snuff would be defined as any finely cut, ground, or powdered tobacco, other than dry snuff, that is intended to be placed in the mouth. Additionally, this bill would eliminate the discount provided to dealers of other tobacco products as compensation for accounting for and timely remitting the Tobacco Products Tax.

The provisions of this bill that increase the Cigarette Tax rate, eliminate the compensation available for Cigarette Tax stamping agents, and impose the Tobacco Products Tax on moist snuff based on weight would be effective July 1, 2009. The provisions of the bill eliminating the dealer compensation available for the Tobacco Products Tax would be effective beginning with the return for June, 2009 due in July, 2009.

**This is an Executive Bill.**

6. **Fiscal Impact Estimates are:** Final. (See Line 8.)

7. **Budget amendment necessary:** No.

8. **Fiscal implications:**

#### Administrative Costs

TAX considers implementation of this bill as routine, and does not require additional funding.

## Revenue Impact

The introduced Executive Budget incorporates the fiscal impact of this bill. As a result, this bill would have no revenue impact. Revenues from the Cigarette Tax and the Tobacco Products Tax are dedicated to the Health Care Fund.

The table below shows the estimated revenue increase to the Health Care Fund of this proposal.

<b>Revenue Impact</b> (millions of dollars)						
	<b>FY 2009</b>	<b>FY 2010</b>	<b>FY 2011</b>	<b>FY 2012</b>	<b>FY 2013</b>	<b>FY 2014</b>
Cigarette Tax Increase	\$0	\$147.7	\$147.7	\$147.7	\$147.7	\$147.7
Moist Snuff to Weight-based taxation	\$0	\$0.54	\$0.43	\$0.23	\$0.03	(\$0.18)
Elimination of Cigarette Discount (at \$0.60 per pack)*	\$0	\$6.4	\$6.4	\$6.4	\$6.4	\$6.4
Elimination of OTP Discount	<u>\$0</u>	<u>\$0.27</u>	<u>\$0.27</u>	<u>\$0.27</u>	<u>\$0.27</u>	<u>\$0.27</u>
<b>Total</b>	\$0	\$154.9	\$154.8	\$154.6	\$154.4	\$154.2

\* Currently, any reduction in funding available for programs financed by the Health Care Fund as a result of the discounts (approximately \$3.5 million at the current Cigarette Tax rate of \$0.30 per pack) must be made up by the General Fund. The bill would make this transfer unnecessary.

The increase in the Cigarette Tax would also increase Retail Sales and Use Tax revenue. The table below shows the estimated sales tax revenue increase of this proposal.

<b>Revenue Impact</b> (millions of dollars)						
	<b>FY 2009</b>	<b>FY 2010</b>	<b>FY 2011</b>	<b>FY 2012</b>	<b>FY 2013</b>	<b>FY 2014</b>
General Fund	\$0	\$1.4	\$1.4	\$1.4	\$1.4	\$1.4
Trans. Trust Fund	\$0	\$0.2	\$0.2	\$0.2	\$0.2	\$0.2
1% Local	<u>\$0</u>	<u>\$0.4</u>	<u>\$0.4</u>	<u>\$0.4</u>	<u>\$0.4</u>	<u>\$0.4</u>
<b>Total</b>	\$0	\$2.0	\$2.0	\$2.0	\$2.0	\$2.0

## **9. Specific agency or political subdivisions affected:**

Department of Taxation  
Virginia Health Care Fund

## **10. Technical amendment necessary: No.**

## 11. Other comments:

### Virginia Cigarette Tax

Virginia first imposed a state cigarette tax in 1960, at a rate of three cents per pack. A similar tax was also imposed on cigars. The tax rate on cigarettes remained at three cents per pack until 1966, when Virginia imposed a sales and use tax and simultaneously lowered the cigarette tax to 2.5 cents per pack. The tax on cigars was repealed in 1966. The cigarette tax increased to 20 cents per pack on August 1, 2004 and again on July 1, 2005 to 30 cents per pack. Virginia and Kentucky are currently ranked as having the 47th lowest state cigarette taxes in the nation.

<b>State Excise Tax Rates on Cigarettes (Surrounding States)</b>		
<u>State</u>	<u>Tax Rate</u>	<u>Rank</u>
Kentucky	\$0.30	47
Maryland	\$2.00	4
North Carolina	\$0.35	45
South Carolina	\$0.07	51
Tennessee	\$0.62	36
Virginia	\$0.30	47
West Virginia	\$0.55	40
Dist. Of Columbia	\$1.00	26

The Cigarette Tax is paid by wholesale dealers who have obtained a stamping agent permit from the Department of Taxation through the purchase of stamps, which must be affixed to each container from which cigarettes are sold. A discount equal to two percent of the purchase price of the Virginia revenue stamps is available to stamping agents.

### Tobacco Products Tax

Under current law, a tobacco products tax is imposed on cigars, smokeless tobacco, and pipe tobacco. Cigarettes are not subject to the tax on tobacco products. Tobacco products include the following:

- Cigars -- any roll of tobacco wrapped in leaf tobacco or in any substance containing tobacco (other than any roll of tobacco that is a cigarette).
- Smokeless tobacco --
  - Snuff -- any finely cut, ground, or powdered tobacco not intended to be smoked.
  - Chewing tobacco -- any leaf tobacco not intended to be smoked.
- Pipe tobacco -- any tobacco which, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco to be smoked in a pipe.

The tax is imposed at the rate of 10% on the “manufacturer’s sales price,” which is defined as the actual price for which a manufacturer, manufacturers’ representative, or any other person sells tobacco products to an unaffiliated distributor. The tax is imposed on the first “distributor” who possesses the taxable product in Virginia. Out-of-state distributors are allowed, but not be required to obtain a license. Retail and wholesale dealers are allowed a discount of 2% of the Tobacco Products Tax due.

### Proposal

This bill would increase the Cigarette Tax from 30 cents per pack to 60 cents per pack of 20 cigarettes. As a result, Virginia would be tied with Wyoming as having the 37<sup>th</sup> lowest state cigarette taxes in the nation. This bill would also eliminate the discount provided as compensation to stamping agents on sales of Virginia revenue stamps.

The bill would also impose the Tobacco Products Tax on moist snuff at the rate of \$0.25 per ounce based on net weight. Moist snuff would be defined as any finely cut, ground, or powdered tobacco, other than dry snuff, that is intended to be placed in the mouth. This bill would put the taxation of moist snuff on a level playing field with cigarettes, where the tax is based on a unit, not price.

Additionally, this bill would eliminate the discount provided to retail and wholesale dealers as compensation for accounting for and timely remitting the Tobacco Products Tax.

The provisions of this bill that increase the rate of the Cigarette Tax, eliminate the dealers compensation available for the Cigarette Tax, and impose the Tobacco Products Tax on moist snuff at the rate of \$0.25 per ounce would be effective July 1, 2009. The provisions of the bill eliminating the dealers compensation available for the Tobacco Products Tax would be effective beginning with the return for June, 2009 due in July, 2009.

### Similar Legislation

**Senate Bill 947** is identical to this bill.

**House Bill 2249** would authorize all counties, cities and towns to impose a local cigarette tax at a rate not exceeding 30 cents per pack. Any county cigarette tax authorized by this bill would apply within the limits of any town located in such county only with the town’s consent. This bill would remove the grandfather clause that enabled localities that were authorized to impose a local cigarette tax prior to January 1, 1977 to continue to do so.

**House Bill 2379** would increase the Cigarette Tax from 30 cents per pack to \$1.19 per pack of 20 cigarettes, with the additional revenue dedicated to funding for the Medicaid program and for public schools. The bill would also increase the excise tax on roll-your-own tobacco from 10% to 30% of the manufacturer’s sales price.

cc : Secretary of Finance

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