

**DEPARTMENT OF TAXATION
2012 Fiscal Impact Statement**

1. **Patron** Patrick A. Hope

2. **Bill Number** HB 160

3. **Committee** House Finance

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

4. **Title** Cigarette Tax and Tobacco Products Tax;
Increase

Second House:

 In Committee

 Substitute

 Enrolled

5. Summary/Purpose:

This bill would increase the Cigarette Tax rate from \$0.30 per pack to \$1.45 per pack of 20 cigarettes and would increase the tax on roll-your-own tobacco from 10% to 50% of the manufacturer's sales price. The bill would also increase the Tobacco Products Tax on certain tobacco products from 10% to 50% of the manufacturer's sales price.

The bill provides that the additional revenue attributable to the increased tax rates on cigarettes and roll-your own tobacco would be appropriated as follows: 4% to the Virginia Department of Health for the State Tobacco Quitline, 4% to the Virginia Foundation for Healthy Youth to prevent tobacco use, and the remaining amount to increase the total annual appropriations to localities pursuant to the Personal Property Tax Relief Act.

The effective date of this bill is not specified.

6. Budget amendment necessary: Yes.

Item(s): Page 1, Revenue Estimates

270, Department of Accounts Transfer Payments

295, Department of Health

307, Department of Medical Assistance Services

7. Fiscal Impact Estimates are: Preliminary. (See Line 8.)

8. Fiscal implications:

Administrative Costs

The Department considers implementation of this bill as "routine," and does not require additional funding. However, on November 23, 1998, leading United States tobacco product manufacturers, called participating manufacturers entered into the Master Settlement Agreement with the Commonwealth and 45 other states. Compliance with the cigarette tax must be diligently enforced to ensure a state is exempt from the application of the NPM adjustment contained in the MSA. Significant increases in cigarette and tobacco products taxes will typically lead to an increase in the evasion of taxes, which

would impact the Department's compliance efforts and may result in an increase in costs for compliance staff and resources.

Revenue Impact

The introduced Executive Budget allocates currently undedicated Retail Sales and Use Tax revenues from the General Fund to the Highway Maintenance and Operating Fund (“HMOF”) beginning July 1, 2012. The introduced Executive Budget revenue assumes the percentage of Retail Sales and Use Tax revenues dedicated to the HMOF will be 0.05 percent in fiscal years 2013 and 2014, 0.10 percent in fiscal years 2015 and 2016, and 0.15 percent in fiscal years 2017 and 2018. The revenue impact of this bill assumes the dedication of the revenues contained in the introduced Executive Budget.

This bill would increase revenues from the state excise taxes on cigarettes and other tobacco products by approximately \$305.2 million dollars in Fiscal Year 2013 and \$332.9 million in Fiscal Years 2014 through 2018. Of the \$305.2 million in Fiscal Year 2013, the tax increase on cigarettes would increase revenues by approximately \$283.5 million and the tax increase on roll-your-own tobacco and certain tobacco products would increase revenues by approximately \$21.6 million. In Fiscal Years 2014-2018, the tax increase on cigarettes would increase revenues by approximately \$309.3 million and the tax increase on roll-your-own tobacco and certain tobacco products would increase revenues by approximately \$23.6 million. The chart below shows the distribution of the revenues.

Because fewer cigarettes and other tobacco products are sold as the price increases, this bill would result in a decrease in the number of cigarettes and other tobacco products sold. As the Retail Sales and Use Tax is imposed on the sale of cigarettes and other tobacco products, the decrease in the numbers sold would result in Retail Sales and Use Tax revenue decreasing by approximately \$24.7 million in Fiscal Year 2013 and \$24.3 million in Fiscal Years 2014 through 2018. The chart below shows the estimated revenue impact of the bill to each Fund.

**Excise Tax Revenue Impact - Increase Cigarettes Tax to \$1.45;
Increase Tax to 50% on Roll Your Own Tobacco and Other Tobacco Products
(Excluding Moist Snuff and Loose Leaf)
(Millions of Dollars)**

	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
Cigarette Tax Revenues	\$283.5	\$309.3	\$309.3	\$309.3	\$309.3	\$309.3
Personal Property Tax Relief (92%)	\$260.8	\$284.6	\$284.6	\$284.6	\$284.6	\$284.6
VDH Tobacco Quitline (4%)	\$11.3	\$12.4	\$12.4	\$12.4	\$12.4	\$12.4
VA Healthy Youth Fund (4%)	\$11.3	\$12.4	\$12.4	\$12.4	\$12.4	\$12.4
RYO and OTP Tax Revenues	\$21.6	\$23.6	\$23.6	\$23.6	\$23.6	\$23.6
Personal Property Tax Relief (92%)	\$19.9	\$21.7	\$21.7	\$21.7	\$21.7	\$21.7
VDH Tobacco Quitline (4%)	\$0.9	\$0.9	\$0.9	\$0.9	\$0.9	\$0.9
VA Healthy Youth Fund (4%)	\$0.9	\$0.9	\$0.9	\$0.9	\$0.9	\$0.9
Total	\$305.2	\$332.9	\$332.9	\$332.9	\$332.9	\$332.9

**Sales and Use Tax Revenue Impact - Increase Cigarettes Tax to \$1.45;
Increase Tax to 50% on Roll Your Own Tobacco and Other Tobacco Products
(Excluding Moist Snuff and Loose Leaf)
(Millions of Dollars)**

	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
Retail Sales and Use Tax Revenues	(\$24.7)	(\$24.3)	(\$24.3)	(\$24.3)	(\$24.3)	(\$24.3)
General Fund- Unrestricted	(\$12.1)	(\$11.9)	(\$11.7)	(\$11.7)	(\$11.4)	(\$11.4)
General Fund - Restricted	(\$4.9)	(\$4.8)	(\$4.8)	(\$4.8)	(\$4.8)	(\$4.8)
Transportation Trust Fund	(\$2.5)	(\$2.4)	(\$2.4)	(\$2.4)	(\$2.4)	(\$2.4)
Highway Maintenance and Operating Fund	(\$0.2)	(\$0.2)	(\$0.5)	(\$0.5)	(\$0.5)	(\$0.5)
Local Option	(\$5.0)	(\$4.9)	(\$4.9)	(\$4.9)	(\$4.9)	(\$4.9)

9. Specific agency or political subdivisions affected:

Department of Taxation
Virginia Health Care Fund
All localities

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. According to the Campaign for Tobacco-Free Kids, Key State-Specific Tobacco-Related Data and Rankings (December 1, 2010), Virginia is currently ranked as having the 50th lowest cigarette tax rate in the nation (including Washington, D.C.), only Missouri is ranked lower with a cigarette tax rate of 17 cents per pack.

State Excise Tax Rates on Cigarettes (Surrounding States)		
<u>State</u>	<u>Tax Rate</u>	<u>Rank</u>
Kentucky	\$0.60	40
Maryland	\$2.00	11
North Carolina	\$0.45	45
South Carolina	\$0.57	42
Tennessee	\$0.62	39
Virginia	\$0.30	50
West Virginia	\$0.55	44
Dist. Of Columbia	\$2.50	10

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

Prior to January 1, 2011, the tobacco products tax was imposed on tobacco products at the rate of 10% on the manufacturer's sales price. 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.

Effective January 1, 2011, the tobacco products tax is imposed on moist snuff at a rate of \$0.18 per ounce based on net weight. Moist snuff is defined as any tobacco product consisting of finely cut, ground, or powdered tobacco that is not intended to be smoked but shall not include any finely cut, ground or powdered tobacco that is intended to be placed in the nasal cavity.

Effective January 1, 2011, the tobacco products tax is imposed on loose leaf tobacco at rates of \$0.21 for each unit that is less than 4 ounces, \$0.40 for each unit that is at least 4 ounces but not more than 8 ounces, and \$0.70 for each unit more than 8 ounces but not more than 24 ounces. Units of loose leaf tobacco that exceed 24 ounces are subject to the Tobacco Products Tax at a rate of \$0.21 per unit plus \$0.21 for each 4 ounce increment that the unit exceeds 16 ounces. Loose leaf tobacco is defined as any leaf tobacco that is not intended to be smoked, but does not include moist snuff.

The tax continues to be imposed on all other tobacco products at the rate of 10% on the manufacturer's sales price.

Health Care Fund

Under current law, all revenues from the Cigarette Tax, the tax on roll-your-own tobacco and the Tobacco Products Tax are deposited into the Health Care Fund. The federal government matches state funds spent on Medicaid, based on a state's federal medical assistance percentage (FMAP) match rate. The FMAP determined for each state has a statutory minimum of 50 percent and maximum of 83 percent; although Medicaid expenditures for some selected services and supports are matched at a higher rate for all states.

Currently, the revenues from the Cigarette Tax are dedicated to the Health Care Fund and used solely for the provision of health care services including, but not limited to, Medicaid payments, disease diagnosis, prevention and control, and community health services.

Personal Property Tax Relief Act of 1998

The PPTRA originally was intended to eliminate the tangible personal property tax imposed on the first \$20,000 of value on passenger cars, pickup or panel trucks, and motorcycles owned or leased by natural persons and used for nonbusiness purposes.

The tax was originally scheduled to be eliminated over five years with 12.5% of the tax eliminated in 1998, 27.5% in 1999, 47.5% in 2000, 70% in 2001, and 100% in 2002 and thereafter. The tax on vehicles valued at \$1,000 or less was completely eliminated in 1998. The amount of the tax relief was shown on the taxpayer's bill and the Commonwealth reimburses localities for the amount of the tax relief.

The PPTRA provided a mechanism for freezing the tax relief if the Commonwealth's revenue growth is insufficient. The percentage of tax relief was frozen at the current percentage of tax relief in effect if any one of three revenue growth tests was not met. When revenue growth was sufficient, the percentage of tax relief increased to the next highest level of tax relief. The level of tax relief never exceeded 70%.

Senate Bill 5005

Senate Bill 5005 (Chapter 1, 2004 Special Session I) changed the personal property tax relief program for motor vehicles. The state currently distributes \$950 million annually to localities as reimbursement for the personal property tax relief provided by each locality. Each locality's share of the \$950 million state reimbursement for tax year 2006 and subsequent tax years is based upon its share of the total state reimbursement for tax year 2005.

Impact on Licensed Wholesalers

Under current law, the state cigarette tax is paid by wholesalers licensed by the Commonwealth as stamping agents through the purchase of stamps, which must be affixed to each individual package, bag, box, or can from which cigarettes are sold. As licensed wholesalers pay for the stamps before the product is sold, any increase in the cigarette tax will increase up-front costs for the wholesalers. Additionally, as licensed wholesalers do not recover the cost of the stamps until the product is sold, increases in the cigarette tax will increase the funds that licensed wholesalers have tied up in inventory.

Proposal

This bill would increase the Cigarette Tax rate from \$0.30 per pack to \$1.45 per pack of 20 cigarettes and would increase the tax on roll-your-own tobacco from 10% to 50% of the manufacturer's sales price. The bill would also increase the Tobacco Products Tax on certain tobacco products from 10% to 50% of the manufacturer's sales price.

The effective date of this bill is not specified.

Similar Legislation

House Bill 41 would change the rules for determining situs for personal property tax purposes to provide that the situs of a motor vehicle used by a full-time student attending an institution of higher education is the domicile of the owner of the motor vehicle, rather than the locality in which the vehicle is normally garaged or parked.

House Bill 53 would require that beginning in tax year 2013, the \$950 million reimbursement Virginia distributes to localities for providing tangible personal property tax relief for motor vehicles would be apportioned in an equal dollar amount among all vehicles in the locality qualifying for tax relief, regardless of value.

House Bill 314 and **Senate Bill 74** would provide that any person who maintains or operates a machine at a retail establishment that enables a person to process a product

that is made or derived from tobacco onto a roll or tube, "roll-your-own cigarette machine", shall be deemed a manufacturer of cigarettes. The resulting product would be deemed a cigarette sold to a consumer.

House Bill 479 would impose criminal penalties for possessing and selling contraband and counterfeit cigarettes. The bill would also define contraband cigarettes and dedicate civil penalties collected for possession of counterfeit and contraband cigarettes to the newly established Cigarette Enforcement Fund. The bill would also require retail dealers to maintain certain records for transactions of more than five cartons of cigarettes.

cc : Secretary of Finance

Date: 1/19/2012 AM
DLAS File Name: HB160F161